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1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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6 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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15 WEDNESDAY, JANUARY 8, 2003

16 10:34 A.M.

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25 Reported by:

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27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

STAN L. DIXON, Member
State Board of Forestry and Fire Protection

SENATOR WES CHESBRO

BILL ALLAYAUD
Sierra Club of California

GARY C. RYNEARSON, Member
State Board of Forestry and Fire Protection

MARK PAWLICKI, Professional Forester
Simpson Timber Company

DAVID BISCHER, President
California Forestry Association

WILLIAM HULTGREN
California Licensed Foresters Association

MICHEL P. FLORIO, Member
Independent System Operator Governing Board

CARL T. GUARDINO, Member
Independent System Operator Governing Board

SENATOR JOHN VASCONCELLOS

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CHAIRMAN BURTON: Governor's appointees, Stan Dixon, State Board of Forestry.

Welcome.

MR. DIXON: Mr. Chairman.

CHAIRMAN BURTON: Go ahead.

MR. DIXON: Thank you, Mr. Chairman and Senators.

I had hoped my good friend and former colleague on Humboldt County Board of Supervisors, Senator Chesbro, would be here to welcome --

CHAIRMAN BURTON: Speak of the devil.

SENATOR CHESBRO: Mr. Chairman and Members, it's a great pleasure for me to be able to introduce two individuals to you who are not only constituents but very close personal friends of mine. First of all, Stan Dixon, and then secondly, Gary Rynearson, who's also before you today.

As you know, timber issues are very contentious and difficult in my district, and I take my hat off to anybody who's willing to serve on the Board of Forestry and face the conflict and the challenges that that board regularly faces.

By way of background, I've had the pleasure of working with Stan Dixon for, I don't know, I'd say 20-some years, because before Stan was elected to the Board of Supervisors, we served together as colleagues on the Board. I have a close, personal working relationship with him and am an admirer. And he was the only other Democrat for several years on the Board with me, and we fought the good fight together, and

1 I support him wholeheartedly.

2 Gary Rynearson is another long-time friend from
3 Arcata. And while he's definitely been on the forestry side of
4 the line, representing the most environmentally oriented part of
5 the county, the City of Arcata on the Board of Supervisors, I
6 appointed him to be my representative on the County's Forestry
7 Advisory Committee because he was a forester in the county with
8 the professional credentials who was willing to talk with, and
9 communicate with, and work with those who were on the
10 environmental side of that very, very difficult line. He has
11 demonstrated an openness to new ideas and a commitment to sound
12 forest and watershed science.

13 So, I believe that both these individuals will
14 continue to serve well, serve the public well on the Board of
15 Forestry, and I encourage your support of them.

16 CHAIRMAN BURTON: Thank you, Senator.

17 Just an announcement for those who care.
18 Mr. Jenkins, who was up today for the State Board of Education,
19 has been taken off calendar because he's going to be leaving his
20 position on the State Board, so he chose not to go through the
21 arduous hearing today.

22 MR. DIXON: Mr. Chairman, I don't really have any
23 further opening statement.

24 I would just like to make an observation that has
25 been made acutely aware to me over the past six months. Since
26 this process of reconfirmation started, I've had the opportunity
27 to meet with your staff and members of the Rules staff regarding
28 issues that I know you and other Senators are concerned with.

1 But one of the things that was brought to my attention was the
2 somewhat abysmal relationship between the Board and the
3 legislative leadership from a communication standpoint.

4 I just want to assure you, Mr. Chairman, that as
5 Chairman of the Board of Forestry, I intend to change that in
6 this next year beginning immediately, and that we will have open
7 communication with your staff. And to the degree that the
8 Senators feel necessary, with the leadership as well.

9 CHAIRMAN BURTON: As Chair, what do you plan to
10 do about the old growth forests, and what would recommend to
11 protect them? And as part of old growth strategy, do you think
12 that the oaks should be included?

13 MR. DIXON: Mr. Chairman, I have many thoughts
14 about the old growth issue. I think that because it has become
15 a public trust issue at this point, even though there are things
16 going on in the field of forestry regulation at this time that
17 protect old growth to some degree --

18 CHAIRMAN BURTON: To a limited degree, one might
19 say.

20 MR. DIXON: A limited degree.

21 I would offer, Mr. Chairman, to bring before the
22 Board of Forestry a review of the Board's policy and State
23 Forest Practice Rules as it relates to the issue of old growth.
24 And I intend to bring that item to the Board at the February
25 meeting as an item for their consideration on how we should
26 review the state's policy with respect to that.

27 Obviously, I'm only one member of the Board.

28 CHAIRMAN BURTON: You are the Chairman.

1 MR. DIXON: But I am the Chairman, and I have the
2 jurisdiction to bring those things to the Board for discussion
3 and dialogue and, potentially, modification of any Board
4 policy.

5 CHAIRMAN BURTON: Well, you talk too long and you
6 won't have to worry about it because it'll all be gone.

7 MR. DIXON: Well, there's no question.

8 The State of California, though, has preserved
9 much of the old growth redwood that is left. There are issues
10 that, thanks to your brother, actually, the State of California
11 began to look at the need to address those issues a number of
12 years ago. And I think that the Board of Forestry is --
13 Mr. Chairman, we have a good Board right now. I think we have
14 the kind of a board that is interested in reviewing the state's
15 policies on critical issues, those issues that have become
16 public trust issues. And I intend to see us follow through with
17 that.

18 That would include, Mr. Chairman, a review of the
19 oaks policy throughout the state.

20 CHAIRMAN BURTON: What are you going to do to
21 focus attention on the impacts of clear-cutting?

22 MR. DIXON: Again, Mr. Chairman, I am one of
23 those that believes that the silvicultural method of
24 clear-cutting is not one that ought to be banned. I think that
25 the interest that I have is the rate of harvest in watersheds
26 where clear-cutting is used. And I think that that -- again,
27 that is one of those policies that I will bring before the Board
28 for consideration and review of Forest Practice Rules relating

1 to that.

2 CHAIRMAN BURTON: As you know, last year Senator
3 Kuehl had a bill to kind of redo the State Board of Forestry,
4 and there were discussions with the Governor's Office. And that
5 bill was held up pending some action by the Board.

6 But, you know, we're very concerned about that.
7 I met with some representatives from the timber industry last
8 week and told them that if something isn't done, they're going
9 to be facing an initiative. And then, when you do an
10 initiative, they end up, by and large, taking a very broad brush
11 approach, which goes beyond solving the problem but could cause
12 other problems.

13 So, I would strongly encourage you to take the
14 leadership, as Chairman of the Board, to get some stuff done or
15 it'll be done for you. And for what it's worth, on the old
16 growth issue, there's already two million dollars pledged.

17 And I just think everybody's got more to do than
18 worry about initiatives in this area, unless the agency that is
19 under law required to do something about these issues doesn't do
20 it.

21 Senator Johnson.

22 SENATOR JOHNSON: No questions, Mr. Chairman.

23 CHAIRMAN BURTON: Senator Knight. Senator
24 Karnette.

25 SENATOR KARNETTE: I'm interested in how the
26 industries and all the boards are working together for the water
27 runoff and keeping the watersheds.

28 What is your response to that?

1 MR. DIXON: Well, from the stand point --
2 Senator, I'm sorry, I didn't actually hear the first part of
3 your statement. Were you saying the communication between --

4 SENATOR KARNETTE: The communication and the
5 working together for the watershed concerns, actually. I know
6 that there are many interests. And I want to make sure, I was
7 just asking, if they are really working together and looking at
8 the watershed problems?

9 MR. DIXON: Well, I think for the most part they
10 are. There are areas that the Board of Forestry needs to work
11 more closely with the State Water Board, and to some degree with
12 the Regional Water Boards that -- particularly as it relates to
13 the harvest of timber.

14 Currently, there is a management agency agreement
15 between the State Board of Forestry, between the State Water
16 Board, and between the Department, the California Department of
17 Forestry and Fire Protection. That agreement specifies the
18 responsibilities and really details those responsibilities.

19 Currently there is a Memorandum of Understanding
20 in existence that is being reviewed -- written, reviewed, and
21 hopefully will come forward very quickly, that will clearly
22 define the responsibilities for the Water Board, for the
23 Regional Water Boards, and for the Department of Forestry as it
24 pertains to the Clean Water Act, the Porter-Cologne Act, and
25 Forest practice Rules.

26 I believe that this document, having read it
27 several times, will make the relationship between those agencies
28 much closer, much more well defined, actually does what Forest

1 Practice Rules should do, and that's to protect the beneficial
2 uses of water. That's a document that should be surfaced before
3 the Water Boards soon and ultimately, in the spring I would
4 hope, before the Board of Forestry.

5 SENATOR KARNETTE: Will the Legislators or Rules
6 Committee get a copy of that? I'd be interested in seeing it.

7 MR. DIXON: I would be happy to make copies of
8 that available.

9 SENATOR KARNETTE: I would like it.

10 MR. DIXON: Certainly.

11 CHAIRMAN BURTON: Senator Romero.

12 SENATOR ROMERO: No questions.

13 CHAIRMAN BURTON: Witnesses in support.

14 MR. ALLAYAUD: I'm Bill Allayaud for Sierra Club
15 California.

16 We're here to support Mr. Dixon's appointment to
17 the Board. We feel like it's sort of a new dawn on the Board.
18 The Governor made some recent appointments which are really good
19 for the Board.

20 I don't think two years ago I'd be up here saying
21 we support him, because there were a lot of problems with the
22 Board, and we think there still are.

23 I guess my disappointment today is, I maybe want
24 to hear Mr. Dixon say, "Look, we acknowledge we have major
25 problems here." Every water body on the North Coast is listed
26 as impaired due to logging now, and we're poised to have the
27 same problem in the Sierra Nevada from Yosemite to Shasta, where
28 Sierra Pacific Industries wants to clear-cut, and it's already

1 had many timber harvest plans approved to clear-cut a million
2 acres of land and replace it with a monoculture. And that's
3 where we get 75 percent of the state's drinking water.

4 So, Rome is burning, and I think the Board needs
5 jump up and say, "We're going to do something."

6 The MAA, since '88, with the State Water Board,
7 has been basically a failure. And they're saying, we're
8 delegating the Water Board our authority to protect water
9 quality to this agency, the Board of Forestry, and it's been a
10 failure. And again, I'd think they say, "You know what? We're
11 tearing it up and starting over, and we're going to do a darn
12 good job because that public trust is what we're there to
13 protect."

14 I guess the last thing I'd say is that Sierra
15 Club, almost all of our members understand that we need to get
16 the product to market, timber products, forest products, but
17 there's a right way to do it and a wrong way to do it. And
18 we -- I'm not saying we should call for a ban on clear-cutting
19 today, although Frank Keeley's bill a couple years ago would
20 have put a moratorium on it so we at least could see, are we
21 doing the right thing. There may be cases where so-called even
22 age management is appropriate, but I don't think the average
23 citizen wants clear-cutting. They, the people of Sierra Nevada,
24 lived with selective cutting for decade after decade with
25 Georgia Pacific, LP, and now SPI's come in saying, "We're
26 clear-cutting it all."

27 People are waking up to this, going why? Why do
28 we have to destroy the Sierra Nevada for over a 500-mile range,

1 30 miles wide, to get the product we could get in another way?

2 That's the issue here, and we're really looking
3 to Mr. Dixon to provide that leadership, along with the new
4 members, to do something about that, whether it's a moratorium,
5 a ban on clear-cutting, a strong review of how they do the rate
6 of cut in all these watersheds.

7 I know Senator Karnette, last year when we were
8 talking about other appointees to the Board, raised the issue of
9 cumulative impact. I think clear-cutting a big problem. I'm
10 not sure how the Board can deal with it.

11 But again, we are here to support Mr. Dixon. We
12 think he's part of like the new attitude on the Board that's
13 positive, and we really look to having change and reform on this
14 Board and in our Forest Practice Rules.

15 Thank you.

16 CHAIRMAN BURTON: Witnesses in opposition?
17 Pleasure of the Committee.

18 SENATOR KARNETTE: Move.

19 CHAIRMAN BURTON: Before we call the roll, if the
20 Board does not act, the Legislature will act. And if the
21 Legislature for whatever reasons does not act, people will go to
22 the ballot with an initiative, and that may not be the best
23 thing in the world. You know, the people sometime will be faced
24 with whether or not we want a timber industry in the state,
25 which we probably do, but we want one that's not -- Mr. Carter,
26 you're here. Did you have anything you wanted to add?

27 MR. ART CARTER [FROM THE AUDIENCE]: No,
28 Mr. Chairman. I'm listening in awe of what you're saying.

1 CHAIRMAN BURTON: And you'll bring this back to
2 your clientele? Thank you.

3 Call the roll.

4 SECRETARY WEBB: Senator Karnette.

5 SENATOR KARNETTE: Aye.

6 SECRETARY WEBB: Karnette Aye. Senator Knight.

7 SENATOR KNIGHT: Aye.

8 SECRETARY WEBB: Knight Aye. Senator Romero.

9 SENATOR ROMERO: Aye.

10 SECRETARY WEBB: Romero Aye. Senator Johnson.

11 SENATOR JOHNSON: Aye.

12 SECRETARY WEBB: Johnson Aye. Senator Burton.

13 CHAIRMAN BURTON: Aye.

14 SECRETARY WEBB: Burton Aye. Five to zero.

15 CHAIRMAN BURTON: Congratulations.

16 MR. DIXON: Thank you, Mr. Chairman.

17 CHAIRMAN BURTON: Did you have any relatives
18 with you that you wanted to introduce?

19 MR. DIXON: No, I didn't, Senator.

20 CHAIRMAN BURTON: Mr. Rynearson.

21 Why don't you, as you talk, just address whether
22 or not you believe we need a policy on the old growth forests.
23 You know, should we protect our hardwoods?

24 We'll get to the compound, complex question
25 after, but address those two in your opening, if you would.

26 MR. RYNEARSON: Thank you, Senator and Members of
27 the Committee.

28 My name is Gary Rynearson. I'm a registered

1 professional forester and manage a forestry and environmental
2 consulting firm up in Eureka, and I'm a native Californian.

3 The old growth issue is a very complex issue.
4 It's one that, as a Board member, we passed, I believe it was
5 last year, the big old tree exemption review, requiring that any
6 tree of a certain age and a certain size had to have a review
7 prior to harvesting under the exemption process.

8 Under the timber harvesting plan and process, the
9 old growth issue is reviewed, at times on a tree-by-tree basis,
10 but certainly on a stand-by-stand basis for the significance of
11 that tree for --

12 CHAIRMAN BURTON: Reviewed by whom?

13 MR. RYNEARSON: It's reviewed by the -- through
14 the process by the Department of Forestry and the Inter-agency
15 Review Committee that includes Fish and Game, Water Quality, in
16 addition to California Geological Survey.

17 So, those issues are reviewed through the THP
18 approval process, and the significance of the old growth, again,
19 sometimes on individual tree-by-tree basis versus timber stands,
20 are in fact looked at. Trees or timber stands which provide
21 significant wildlife potential or certainly have wildlife that's
22 sensitive are listed under the federal or state ESA. Those
23 stands are protected that are providing that habitat.

24 In the broader sense, as far as the oaks, the
25 Board last year passed a requirement for the northern and the
26 southern portion of the state under the cumulative effects
27 analysis review portion of the timber harvesting plan process,
28 that landowners are required to address the current condition of

1 the oaks and the drainage within their assessment, and how those
2 oaks will be maintained and regenerated across their diameter
3 and age classes, making sure that the -- that hardwood resource
4 will be there for the use of wildlife.

5 CHAIRMAN BURTON: You chaired the Scientific
6 Review Panel that was commissioned by Governor Wilson. You
7 recommended standards to protect the coho salmon from logging.
8 Interim rules were adopted, but a lot of recommendations weren't
9 adopted and report was criticized by the industry. I guess
10 that's the result of either they weren't adopted as a result of
11 that, and now the coho are on the Endangered Species list.

12 As an industry rep on the Board, what do you
13 think the industry can do to help restore the coho to our
14 rivers?

15 MR. RYNEARSON: In July of 2000, the so-called
16 Interim Rules which adopted a significant portion of the
17 recommendations of the Scientific Review Panel report were
18 enacted and put into regulation. Those have been annual rules
19 which have been renewed three times. They are now extended
20 through December 31 of 2003 at this point.

21 Almost verbatim, the rules to protect the fish
22 bearing creeks, the Class One water courses where the salmonids
23 exist, were adopted from that report almost verbatim.

24 Also last year, the Board passed the Interim
25 Watershed Mitigation Addendum, which specifically allows
26 landowners to address conditions on the ground on an individual
27 basis. There are also opportunities for landowners then to
28 design specific protection measures which may be more or may be

1 less than are currently -- than currently exist in the rules.

2 Also, that system sets up a preconsultation with
3 the various agencies involved in the process to help identify
4 concerns prior to going into the timber harvesting plan process
5 and help try to mitigate some of those concerns.

6 CHAIRMAN BURTON: Senator Johnson.

7 SENATOR JOHNSON: No questions, Mr. Chairman.

8 CHAIRMAN BURTON: Senator Romero.

9 SENATOR ROMERO: No questions.

10 CHAIRMAN BURTON: Senator Knight.

11 SENATOR KNIGHT: No questions.

12 CHAIRMAN BURTON: Senator Karnette.

13 SENATOR KARNETTE: I'm wondering about the
14 independence of the Board. You have how many people working who
15 report directly to you?

16 MR. RYNEARSON: On the Board of Forestry?

17 SENATOR KARNETTE: Yes, well, rather than the
18 Department of Forestry. That report to the Board, how many?

19 MR. RYNEARSON: We have essentially two, two
20 segments. We have the administrative staff, which is the
21 Executive Officer, and then a part-time Assistant Executive
22 Officer, two clerical administrative, and then there's also an
23 additional -- the Professional Foresters Examining Committee or
24 the Foresters Licensing, which also reports directly to the
25 Board and is considered Board staff.

26 The Assistant EO is two-thirds time in that
27 position, and he also has an additional administrative person
28 working for him.

1 So, total staff would be four.

2 SENATOR KARNETTE: Do you think you can really be
3 independent? Is that enough? Of course it's never enough; I
4 realize that. Nobody ever has enough.

5 MR. RYNEARSON: It would certainly be useful to
6 have additional staff, especially staff that could interface
7 with the staff of leadership with the Legislature.

8 SENATOR KARNETTE: Well, it seems to me, if we
9 want you to be independent, and we want that to happen, I just
10 want to be sure it can. You think it can.

11 MR. RYNEARSON: I think it can. As Chairman
12 Dixon pointed out, we have a good Board. We have a Board that
13 is supported by the Department of Forestry and Fire Protection
14 staff, and frankly, we couldn't operate without them, without
15 that help and that assistance. And we appreciate that.

16 However, those folks who provide us additional
17 staffing from the Department work at our request to develop
18 documents, and help develop rule language, and that's done
19 specifically at the direction of the Board without influence
20 from the management of the Department.

21 SENATOR KARNETTE: Thank you.

22 CHAIRMAN BURTON: Witnesses in support.

23 MR. PAWLICKI: Mark Pawlicki of Simpson Timber
24 Company.

25 We're in strong support of Mr. Ryneearson. We've
26 worked with him at our company for a number of years.

27 And also, I've known him and his father before
28 him who was also a forester. They both have a high degree of

1 integrity and professionalism.

2 I am also myself a registered professional
3 forester, and I'm proud to be associated with Mr. Rynearson.

4 CHAIRMAN BURTON: What do foresters do?

5 MR. PAWLICKI: What do foresters do? Well, many
6 things.

7 CHAIRMAN BURTON: Tell you what tree to cut?

8 MR. PAWLICKI: Well, yes. Under the California
9 law, you're required to be licensed in order to practice
10 forestry, and you set out prescriptions for forest management.
11 You have to design timber harvest plans. The timber harvest
12 plan has to be signed by a licensed forester before it can be
13 submitted to the state for approval.

14 There are many disciplines. There are watershed
15 experts who are foresters, biologists, botanists, a whole range
16 of things. And so, you have to pull together a series of
17 disciplines to put together a timber harvest plan as a forester.

18 CHAIRMAN BURTON: A forester recommends to his or
19 her employer a timber harvest plan, right?

20 MR. PAWLICKI: Yes.

21 CHAIRMAN BURTON: Then that plan ends up
22 diminishing the coho salmon, for want of a better word, what
23 went wrong? I would wouldn't imagine they do that
24 intentionally.

25 MR. PAWLICKI: In the first place, the rules do
26 not permit the Director of the Department to approve a plan that
27 would do that.

28 CHAIRMAN BURTON: How come it's happening?

1 MR. PAWLICKI: Well, I think there are a lot of
2 factors.

3 CHAIRMAN BURTON: Is the Director of the
4 Department stupid?

5 MR. PAWLICKI: No, I think there are many factors
6 that go towards the -- that contribute to the decline of the
7 fish going back many years. And you've got to look at the last
8 10-15 years of forest practice rules which have significantly
9 increased. And you have to look at salmon populations over
10 many, many, many years to try to get an idea.

11 There's overfishing; there's certainly many other
12 reasons that contribute to the decline.

13 CHAIRMAN BURTON: How about the cutting down
14 close to the river, and then the sludge goes in, and the salmon
15 can't do what salmon do?

16 MR. PAWLICKI: As Mr. Ryneerson pointed out, we
17 now have 150-foot wide buffer strips on Class One streams, which
18 are the main fish bearing streams. You can't, you really can't
19 get near those streams with logging because of those buffer
20 zones. Those are now in place in the Forest Practice Rules.
21 And it's only been in the last couple of years that they've been
22 in place.

23 And I think that those rules and other rules that
24 they've put in place at the Board, from road management, and
25 other mitigating factors, have gone a long ways towards
26 protecting. In fact, there's no other state in the Union that
27 comes anywhere near what we have as far as forest protection
28 rules. And it actually --

1 CHAIRMAN BURTON: How about Nebraska?

2 [Laughter.]

3 MR. PAWLICKI: Nebraska, like many of the states
4 in the south --

5 SENATOR JOHNSON: They harvested them all a long
6 time ago.

7 [Laughter.]

8 MR. PAWLICKI: There's a little bit of forestry
9 in those states, but those states, particularly like in the
10 south, are what we call wake-up-and-log states. You can wake up
11 and go logging.

12 We can't do that in California. You have to have
13 a permit in this state. There are only two states that require
14 a permit.

15 CHAIRMAN BURTON: Who is your employer?

16 MR. PAWLICKI: Simpson.

17 CHAIRMAN BURTON: Who owns Simpson?

18 MR. PAWLICKI: It's a family owned business based
19 in Seattle.

20 CHAIRMAN BURTON: Thank you.

21 MR. BISCHEL: Mr. Chairman, Members of the
22 Committee, my name David Bischel. I'm President of the
23 California Forestry Association.

24 We strongly support Mr. Ryneerson for
25 confirmation. I believe Gary, with his experience as president
26 of an environmental consulting firm, as the past Chair of the
27 Professional Foresters Examining Committee, which has oversight
28 for the profession in the state, and his involvement and

1 participation in the Science Review Panel have demonstrated
2 clearly that he has the expertise, the professional expertise,
3 the ethical standards, and the scientific background to occupy
4 this position.

5 Thank you.

6 CHAIRMAN BURTON: What happened when there were a
7 lot of recommendations in the review document, and then they
8 weren't adopted? The Board just didn't like them, or the
9 industry lobbied against them, or what?

10 MR. RYNEARSON: A substantial portion of the
11 recommendations were in fact put into regulation.

12 CHAIRMAN BURTON: And a lot of them weren't.

13 MR. RYNEARSON: I can't tell you a number by
14 number, but I know the buffers -- the buffers for Class One and
15 treatment for Class One water courses, and the retention of the
16 ten largest trees per 100 meters, all those are verbatim out of
17 the Scientific Review Panel report.

18 CHAIRMAN BURTON: Thank you.

19 Next.

20 MR. HULTGREN: My name is William Hultgren. I'm
21 with the California Licensed Foresters Association. I serve on
22 the Forest Practices Committee as the Chair.

23 We would urge you to confirm Mr. Ryneearson. He
24 has been actively involved in forestry as a past President of
25 CLFA. He has a keen sense of proper functioning forest
26 ecosystems by virtue of his active professional experience. And
27 he's dedicated to preserving the integrity of the state's
28 regulatory process as well as the protection of our watersheds.

1 As a Board member, Gary has worked to implement
2 watershed protection through the Road Rules Package and the
3 extension of the T&I rules, or otherwise known as the Interim
4 Rules.

5 Thank you.

6 CHAIRMAN BURTON: In opposition?

7 MR. ALLAYAUD: Bill Allayaud again for the
8 Sierra Club.

9 I'm somewhat ambivalent sitting here. We
10 understand this is an industry slot, and I'm not here to
11 challenge Mr. Rynearson's credentials. I've talked to people,
12 and I've talked to him before in his office, and I think they're
13 excellent. And I also appreciate what the Registered
14 Professional Foresters do in terms of their understanding of
15 watershed processes, and geomorphology, and all the rest.

16 However, one thing that bothers me is that the
17 industry's still saying one of the main problems here is
18 overfishing. How many coho salmon have you eaten in the last 15
19 years? Coho salmon are not being over fished.

20 The reason it's a regulated industry, the reason
21 it was shut down was because the fish aren't returning because
22 of damage to the watershed.

23 The other thing you will hear is, it was the
24 1950s before we had rules, and that damage is still there. Some
25 damage is there, and we're working on restoration.

26 It's ongoing damage. It's not just the
27 Scientific Review Panel's report. The Dunne report, several
28 reports prior to that, a series of reports that says there's a

1 big problem in the way we manage and harvest timber in the
2 state, and little has been adopted by this Board. The
3 Scientific Review Panel recommendations, very few have been
4 incorporated by the Board.

5 The old growth review that Mr. Ryneearson talked
6 about is written so that most of the big guys are out. They
7 have EIRs or habitat conservation plans, so really that old
8 growth review, special review, is only done for mostly little
9 projects.

10 Finally I'll just note that until we do take
11 seriously the Dunne report, the Scientific Review Panel report,
12 and make real changes in the rules, it's the same old story.
13 That's why we're opposing Mr. Ryneearson.

14 Thank you.

15 CHAIRMAN BURTON: Senator Johnson.

16 SENATOR JOHNSON: Just a quick question.

17 I'm curious. What state would you point to that
18 does a better job than California?

19 MR. ALLAYAUD: Actually, that's another one. The
20 industry the last couple of years, and in the bill we had,
21 Senator Kuehl's bill last year, they were blaming the
22 overfishing on the loss of the coho.

23 They also say we have the strictest rules --

24 SENATOR JOHNSON: That doesn't answer my
25 question. It's a simple question. It could be as the Chairman
26 called it, Nebraska.

27 What state would you point to as doing a better
28 job than California has or is attempting to do on these issues?

1 I'm not trying to embarrass you. I'm asking out
2 of curiosity.

3 MR. ALLAYAUD: I know. I asked the same question
4 of people, because the industry keeps saying our rules are this
5 thick, timber harvest plans used to be this thick, and now
6 they're this thick, and I said, "Are they right or wrong?"

7 The answer is, our rules are very thick. Are
8 they best -- are they thicker than any other state? For sure.
9 Are they the best? I don't know.

10 The key thing here is NMFS, the National Marine
11 Fishery people, have said that the rules adopted by this Board
12 are inadequate to protect coho salmon. So, those things they
13 did take from those reports and put into the rules are
14 inadequate to protect the endangered species.

15 CHAIRMAN BURTON: It would be damning them with
16 faint praise.

17 MR. ALLAYAUD: The answer is probably we have the
18 strictest rules as far as I know. I'm not an expert. But they
19 aren't protecting the resource or our water supply.

20 SENATOR JOHNSON: Okay. It took you quite a
21 while to get to that, but you don't have another state to point
22 to then, I take it.

23 MR. ALLAYAUD: I cannot. I'm not saying there is
24 or is not. I don't know.

25 CHAIRMAN BURTON: Would you like to respond to,
26 it's not the fishermen; that it's what's happening with the
27 trees?

28 And the fact that the big guys were exempted out,

1 and so really the only review goes to little guys?

2 MR. RYNEARSON: At this time, Mr. Chairman there
3 are two habitat conservation plans that are approved in the
4 states. There's one currently under review.

5 Those reviews include specific analysis --
6 analyses of the old growth resource, and the retention or
7 protection of those resource elements that are called the
8 structural elements within those -- the timber -- or within the
9 forests, as well as in one case the habitat conservation plan
10 specifically sets aside a number of the remaining old growth
11 stands for marbled murrelet habitat.

12 CHAIRMAN BURTON: For all of the timber
13 companies, or just the small ones?

14 MR. RYNEARSON: Only for that property, only for
15 that particular property for which that habitat conservation
16 plan has been approved. And that habitat conservation plan was
17 approved by the U.S. Fish and Wildlife Service and the National
18 Marine Fisheries Service, the two federal agencies that are
19 charged with the administration of the Endangered Species Act.

20 CHAIRMAN BURTON: I think the point was that some
21 of the things you pointed to with some pride exempt the big
22 loggers, for the want of a better word, and only apply to the
23 smaller timber companies.

24 MR. RYNEARSON: The timber harvesting plan review
25 still includes an analysis of the old growth for habitat,
26 specifically on the vast majority of the industrial timber
27 lands.

28 Again, there's only two habitat conservation

1 plans that are currently approved in the state. One of them is
2 for a multi-species habitat conservation plan. The other right
3 now is for a single species.

4 CHAIRMAN BURTON: How many times when somebody
5 comes in with a plan is it rejected or modified?

6 MR. RYNEARSON: Plans are almost always
7 modified.

8 CHAIRMAN BURTON: To a great extent, to a lesser
9 extent?

10 MR. RYNEARSON: It depends on the resources that
11 are at risk and the resources at issue.

12 A timber harvesting plan is essentially a
13 mitigation document. It's prepared by a registered professional
14 forester.

15 CHAIRMAN BURTON: Who works for whom?

16 MR. RYNEARSON: Who works for the landowner
17 typically.

18 CHAIRMAN BURTON: Works for the company that
19 wants -- and that's all right.

20 MR. RYNEARSON: The company or the small
21 landowner, yes. About 40 to 50 percent of the forest lands in
22 California are owned by nonindustrial timber owners.

23 CHAIRMAN BURTON: So, it's prepared by an
24 employee of a person or company that will make money the more
25 trees that are cut down?

26 I'm not against it. I'm just trying to
27 understand it.

28 MR. RYNEARSON: It's prepared by a registered

1 professional forester that works directly for the landowner, the
2 in company, or they are a consultant that is working on the
3 landowner's behalf.

4 CHAIRMAN BURTON: So, they're working with
5 somebody who has a vested interest to have more trees cut down.
6 It's all right. You know, I don't expect them to hire Julia
7 Butterfly.

8 [Laughter.]

9 MR. RYNEARSON: Yes, they're working for
10 somebody -- they've come to a forester because they'd like some
11 portion of their property harvested; that's correct.

12 CHAIRMAN BURTON: And if foresters get paid, just
13 kind of idle curiosity, but do they get paid by the tree that's
14 cut down, or they get paid a flat fee for creating the plan? Do
15 they have a contingency in it, or what? Or do you know?

16 MR. RYNEARSON: Most landowners would, I think,
17 greatly appreciate a flat fee. Unfortunately, because of the
18 nature of the system and the timber harvesting plan review
19 process, there are too many uncertainties, so it's typically
20 charged by the hour. So, there's no contingency -- it's not
21 contingent upon the amount of trees harvested.

22 Typically, most foresters charge an hourly rate.
23 Or, if they work for a company, they get a flat salary.

24 CHAIRMAN BURTON: Well, I intend to vote for you
25 because you are the industry rep on the Board, and my problem in
26 most instances is less with industry reps than it is with the
27 public rep, who may as well be the industry rep the way they
28 vote.

1 And not withstanding the Sierra Club's testimony,
2 I've been told by people that I respect in the environmental
3 milieu that, all in all, for an industry rep, you ain't bad.

4 [Laughter.]

5 MR. RYNEARSON: Thank you, Mr. Chairman.

6 CHAIRMAN BURTON: Did you want to be heard on
7 this, Mr. Carter?

8 MR. CARTER [FROM THE AUDIENCE]: No.

9 CHAIRMAN BURTON: You're not here on this one
10 either?

11 MR. CARTER [FROM THE AUDIENCE]: I think the
12 representatives from the company are represented by -- have
13 members of their employees --

14 CHAIRMAN BURTON: If you're going to speak, you
15 should come to the table.

16 Senator Johnson.

17 SENATOR JOHNSON: No questions.

18 CHAIRMAN BURTON: Senator Romero.

19 SENATOR ROMERO: No questions.

20 CHAIRMAN BURTON: Senator Knight.

21 SENATOR KNIGHT: No questions.

22 CHAIRMAN BURTON: Senator Karnette.

23 SENATOR KARNETTE: I don't exactly have a
24 question, but I like you personally. I think you're a good guy,
25 but it does disturb me. The whole process bothers me a lot.

26 But you are the industry rep, as the Pro Tem
27 said. So, I guess that's all I'll say.

28 CHAIRMAN BURTON: Call the roll.

1 SECRETARY WEBB: Senator Karnette.

2 SENATOR KARNETTE: Aye.

3 SECRETARY WEBB: Karnette Aye. Senator Knight.

4 SENATOR KNIGHT: Aye.

5 SECRETARY WEBB: Knight Aye. Senator Romero.

6 SENATOR ROMERO: Aye.

7 SECRETARY WEBB: Romero Aye. Senator Johnson.

8 SENATOR JOHNSON: Aye.

9 SECRETARY WEBB: Johnson Aye. Senator Burton.

10 CHAIRMAN BURTON: Aye.

11 SECRETARY WEBB: Burton Aye. Five to zero.

12 CHAIRMAN BURTON: Congratulations.

13 MR. RYNEARSON: Thank you, Senator. Thank you,
14 Committee Members.

15 CHAIRMAN BURTON: We look for better days,
16 because as I said earlier to Mr. Dixon, we are not looking
17 forward to an initiative, but I guarantee there will be one, and
18 it will be, you know, it could well be the end of the industry
19 in the state, so we don't necessarily want to do that.

20 And I want to note the presence of Senator Kuehl,
21 who Chairs the Committee, and she's here to show her interest in
22 the issue.

23 SENATOR KUEHL: Thank you, Mr. Chairman.

24 CHAIRMAN BURTON: Mike Florio, Independent
25 System Operator.

26 MR. FLORIO: Thank you, Mr. Chairman and
27 Members.

28 I usually appear before the Legislature as senior

1 attorney for TURN, The Utility Reform Network. Today I'm before
2 you for confirmation as an appointee to the Independent System
3 Operator Governing Board, a very much part-time position.

4 I have been on the ISO Governing Board since it
5 was created in May of 1997. Back then, it was the so-called
6 stakeholder board, where each of us represented a certain
7 interest group. I represented residential customers under that
8 format. When it was made a governor-appointed board in early
9 2001, I was appointed under that framework. And given further
10 legislation, we're now subject to confirmation.

11 I think usually people don't come before you for
12 confirmation when they've already been in the job for six years,
13 but that's the way this one has worked out.

14 I think under the new Board format, we have
15 worked very hard to improve the relationship between the ISO and
16 other state agencies involved in the energy area. I think we've
17 had some significant success. We've provided the staffing for
18 the refund proceeding that recently brought forth an
19 administrative law judge recommendation for 1.8 billion in
20 refunds. That used to be a lot of money.

21 Thank you. I'm available for questions.

22 CHAIRMAN BURTON: Senator Johnson, any questions?

23 SENATOR JOHNSON: Just quickly, I recall seeing
24 newspaper quotes from you equating generators with war
25 criminals.

26 First, were you accurately quoted? And secondly,
27 do you really believe that?

28 MR. FLORIO: I think there I may have at one --

1 on one occasion made a somewhat intemperate remark of that
2 nature.

3 SENATOR JOHNSON: As my friend Tom Hayden used to
4 say, if it's written down it's forever.

5 MR. FLORIO: I would say that I work regularly
6 with many members and representatives of the generator
7 community. I listen to their concerns and take them into
8 account.

9 And I don't think, you know, if you look at the
10 record of what I voted on, that I could fairly be characterized
11 as anti-generator. Obviously, we need them as part of our
12 system.

13 SENATOR JOHNSON: So it was a one-time,
14 intemperate, impolitic remark, is what you're saying?

15 MR. FLORIO: Well, and also in the context where
16 the state was -- was being drained of literally millions of
17 dollars a day of extremely high prices.

18 SENATOR JOHNSON: At that time did you have
19 similar comments about municipal utilities, the Los Angeles
20 Department of Water and power? And in your mind at that time,
21 were they war criminals as well?

22 MR. FLORIO: I don't think we had the information
23 back then that we have now about where the money was being
24 made. And I think there have been some rather surprising and
25 disappointing disclosures come out of that.

26 SENATOR JOHNSON: Yes, I agree.

27 Thank you very much.

28 CHAIRMAN BURTON: I think actually he was

1 paraphrasing Senator Peace's quote on the subject.

2 [Laughter.]

3 CHAIRMAN BURTON: Senator Karnette.

4 SENATOR KARNETTE: No questions.

5 CHAIRMAN BURTON: Senator Romero.

6 SENATOR ROMERO: Actually let me raise LADWP. I
7 live in L.A., represent portions of the City of Los Angeles.
8 DWP, of course, a major issue.

9 There is concern about the seamless grid. I also
10 have Azusa in my district as well, and recently they signed on
11 with this regional plan.

12 Can you help me understand better the benefits
13 for consumers who are part of the munis as to why this seamless
14 plan benefits them? What are the pros and cons overall?

15 MR. FLORIO: I think the pro side is operating
16 under a uniform set of rules, so that the real goal here is to
17 get the cheapest possible power to consumers. And if you have a
18 patchwork system where different rules govern throughout the
19 state, it's more difficult for the most economical power to get
20 to customers because there're barriers.

21 And really, the reason the ISO was created was to
22 try to open up the electron highway, if you will, so the most
23 economical power could flow to customers. And I think in
24 general it's been successful at that.

25 There have been other problems in the industry,
26 obviously, that have created, you know, an economic disaster for
27 the state, but I don't think it's the existence of the ISO or
28 the way it has managed the grid that has caused that. It's a

1 lot of other factors.

2 SENATOR ROMERO: What's the status right now with
3 LADWP in looking at the seamless grid? And what other munis are
4 still out there?

5 MR. FLORIO: Well, we've had Anaheim, Riverside,
6 Azusa, and Banning, I believe, that have joined. SMUD, on the
7 other hand, has left the ISO and set up their own separate
8 control area. L.A. is still a separate control area. And you
9 know, it's a complex set of issues.

10 I was on a committee a couple of years ago that
11 spent about six months trying to come up with a set of rules
12 that would make it attractive for municipals to join the ISO,
13 and I think it's -- L.A. is unique in its size as a municipal
14 utility and the amount of transmission that it owns. There just
15 seem to be some economic barriers to L.A. joining that I hope we
16 can overcome.

17 But it's a difficult issue, and there is some
18 degree of loss of autonomy by being part of a larger entity.

19 Now, we're still a California-only institution
20 and probably will be that way for a while, but there are efforts
21 to coordinate with other states, again, with the objective of
22 having the cheapest possible power get to customers. But we get
23 into issues of federal jurisdiction that have been very
24 troublesome.

25 So, you know, an entity that, like L.A., that is
26 exempt largely from FERC jurisdiction would like to stay that
27 way for a number of very good reasons.

28 SENATOR ROMERO: Thank you.

1 CHAIRMAN BURTON: Pete.

2 SENATOR KNIGHT: Thank you, Mr. Chairman.

3 During the last crisis, there was a shortage of
4 electricity. As a result, there was flurry of activity to build
5 power plants and to site power plants across the state.

6 Since then, a number of those have been
7 cancelled, delayed. There is still a requirement for increased
8 power. There will be as California continues to grow.

9 What are we doing to encourage or to support the
10 effort to get additional power into the State of California?

11 MR. FLORIO: The ISO's role in that is limited.
12 But what we have been able to do is put in place what are called
13 interconnection rules that provide standard terms for connecting
14 to the high voltage grid. Historically that has been very
15 difficult for independent suppliers to get connected, and that
16 process has been streamlined.

17 We have tried to develop a reasonable set of
18 market rules that can provide some certainty for suppliers about
19 what the rules of the road will be.

20 Obviously, it's a difficult time in the whole
21 industry. It's not just in California that this is happening.
22 A number of the generating companies, you know, are in severe
23 financial distress. It really has little to do with anything
24 that happened in California. It's a worldwide situation.

25 SENATOR KNIGHT: So we in California will have to
26 wait until the world satisfies the problem, and then maybe we'll
27 be all right?

28 MR. FLORIO: No, I don't think we have to wait.

1 We've recently crossed a major milestone with getting the
2 utilities back into buying power instead of the Department of
3 Water Resources. The PUC has launched an effort to develop
4 long-term plans for those utilities, and I think that will lead
5 to contracts, which is really what it's going to take for
6 suppliers to get financing. The banks aren't going to finance
7 new power plants on the come any more. They're going to want to
8 see a contract to supply a load-serving entity.

9 One of the things I think was clearly learned
10 during the crisis is the idea of buying everything on the spot
11 market was a huge mistake. And now we are moving much more
12 strongly into a structure with long-term contracts. And those
13 contracts will enable new plants to get built when we need them.

14 SENATOR KNIGHT: As we talked before, I'll ask
15 the question again, is the crisis over?

16 MR. FLORIO: I don't think it's over. I think
17 it's moved from crisis management to now it being time to start
18 building what's to come in the future. If we don't do that
19 well, we will have another crisis.

20 SENATOR JOHNSON: Senator Karnette.

21 SENATOR KARNETTE: No questions.

22 SENATOR JOHNSON: Witnesses in support?
23 Witnesses in opposition?

24 SENATOR KARNETTE: Move.

25 SENATOR JOHNSON: It's been moved, Secretary,
26 call the roll.

27 SECRETARY WEBB: Senator Karnette.

28 SENATOR KARNETTE: Aye.

1 SECRETARY WEBB: Karnette Aye. Senator Knight.

2 SENATOR KNIGHT: Aye.

3 SECRETARY WEBB: Knight Aye. Senator Romero.

4 SENATOR ROMERO: Aye.

5 SECRETARY WEBB: Romero Aye. Senator Johnson.

6 SENATOR JOHNSON: Aye.

7 SECRETARY WEBB: Johnson Aye. Four to zero.

8 [Thereafter, CHAIRMAN BURTON

9 voted Aye, making the final

10 vote 5-0 for confirmation.]

11 SENATOR JOHNSON: Congratulations.

12 Sir, did you have anyone with you, family
13 members?

14 MR. FLORIO: No.

15 SENATOR JOHNSON: Mr. Guardino.

16 Senator Vasconcellos.

17 SENATOR VASCONCELLOS: Mr. Chair and Members.

18 SENATOR JOHNSON: The Dean of the Legislature if
19 not of the Senate.

20 SENATOR VASCONCELLOS: You're almost second,
21 coming up.

22 I'm pleased to be here today to introduce to you
23 once again my friend and a distinguished citizen, Carl Guardino.

24 Twenty-five years ago, David Packard, the
25 legendary David Packard, created the Manufacturing Group in
26 Silicon Valley to have the government and business work together
27 to build a society that was good for work, good for society.
28 It's been a remarkably successful operation.

1 Carl became its president, I guess, four years
2 ago -- six years ago already, and has done the same kind of work
3 to help business and government work together to make the
4 Silicon Valley the best place to work, to live and to work. And
5 our prosperity certainly is in large part due to the efforts
6 that he and his group have made.

7 He's served on the ISO already. He's back to be
8 renewed here. He's one of the finest people I know, and I urge
9 your support.

10 There's no one concerned at all about his
11 integrity, his capacity, and his values.

12 MR. GUARDINO: Thank you, Senator Vasconcellos.

13 Vice Chair Johnson and Members of the Rules
14 Committee, again, my name is Carl Guardino.

15 In January of 2001, when I accepted the
16 appointment to the Independent System Operator Board of
17 Governors, we were in the midst of an energy crisis, and ISO was
18 operating, of course, in a crisis mode. As President and CEO of
19 the Manufacturing Group, I was keenly aware of the real impacts
20 of this crisis on California's working families as well as job
21 providers. Every day we dealt with the horrendous increases in
22 energy costs and the all too frequent possibility of rolling
23 blackouts.

24 As a Board member, my top objectives have been to
25 upgrade and expand the transmission grid for greater reliability
26 and to meet demand, to stabilize the energy markets, to keep our
27 professional staff, to exhort the FERC to investigate excessive
28 energy costs, to work more closely with state agencies as we

1 look out for California consumers, and to develop a blackout
2 notification program to prepare and, hopefully, prevent further
3 rolling blackouts.

4 Throughout the past two years, the Board's
5 actions have unanimously placed protection of California
6 consumers as our top priority and responsibility. It is with
7 that tenor and your approval that I look forward to continuing
8 to serve on the ISO Governing Board.

9 I appreciate your consideration.

10 CHAIRMAN BURTON: No questions.

11 Senator Johnson.

12 SENATOR JOHNSON: No questions.

13 CHAIRMAN BURTON: Senator Romero.

14 SENATOR ROMERO: Let me just ask again, many of
15 us have watched from afar this bizarre relationship between
16 staff, Board members, FERC.

17 What can you do? Given the recent rulings, et
18 cetera, what do you anticipate to be the future of the Board?
19 How do you meet? What is the relationship between staff and
20 management of the Board? Is it working, and how does it
21 ultimately come together to protect the consumers of California?

22 MR. GUARDINO: Thank you, Senator Romero.

23 Yes, our primary responsibility is just that, to
24 protect California's consumers and working families.

25 Our relationship with the FERC, as you know, the
26 FERC rules over Cal-ISO. We exhort them with hundreds of
27 filings a year to look out for California's consumers. We will
28 continue to have that role. It is an interesting relationship

1 based on, as you know, 1890.

2 Relative to our relationship with our
3 professional staff, our first effort was to make sure to stem
4 the outflow of professional staff. We were losing about 12
5 percent a year when we came on board just 24 months ago. That
6 is now less than 5 percent. We've been impressed with their
7 professionalism and dedication.

8 Yet we also have primary responsibility and
9 overall oversight in our Board capacity. That means a good
10 check and balance system of making sure that the recommendations
11 they make to us in our fiduciary responsibility, that we make
12 sure that they are really what is best for the consumers of
13 California.

14 SENATOR ROMERO: Let me just ask again, in the
15 present configuration, there are five members on the Board.
16 There are three seated right now.

17 In order to move something forward, what are the
18 rules of the Board? Do you have to have a majority, which is
19 three? Do you have to have two? What are the rules of the
20 Board? Are you able to conduct your business with two
21 vacancies?

22 MR. GUARDINO: Thank you.

23 We will welcome two more people to joining the
24 three of us that are still on the Board. If any of you are
25 interested, come join us.

26 We do need to be a full Board again. To answer
27 your question, yes, we need a quorum of three. California
28 Corporations Code calls that we at least have two at any time to

1 continue to function at all, and we need those seats filled.

2 Relative to is five enough, it could be slightly
3 expanded, in my humble opinion, so that we can make sure to
4 staff all the different committees, whether that's auditing, or
5 HR, or the different committees, subcommittees, of the full
6 board that we need to take this fiduciary responsibility in the
7 seriousness that we all view it, and to do our best job for 35
8 million Californians.

9 SENATOR ROMERO: Thank you.

10 CHAIRMAN BURTON: Senator Knight.

11 SENATOR KNIGHT: Thank you.

12 To follow up on the question that was asked
13 before, and I assume you heard the discussion concerning the
14 siting and constructing of new power plants, does the Governor's
15 renegotiating contracts have anything to do with the fact that
16 we may not be developing power plants at the rate we should to
17 keep up with the California demand?

18 MR. GUARDINO: Thank you, Senator Knight.

19 I think our biggest challenge is our overall
20 economic condition in California, making sure, as both private
21 and public citizens, that we do everything we can to foster an
22 environment where employers can prosper here, and that includes
23 those generators who we want to prosper here.

24 In our region of Silicon Valley, Calpine is not
25 only a major employer but an energy provider who wants to build
26 more plants that are environmentally sound and provide the
27 energy we need. Right now, they are having to hold back on a
28 major facility near Hayward, Russell City, 580 additional

1 megawatts, because of the current economic conditions. You and
2 your legislative colleagues have helped streamline the process
3 in a great way for plant construction, and they view that as
4 very positive. But right now, the overall economy has put that
5 on the shelf.

6 We need to get back to a condition where we can
7 allow the Calpines of the world to thrive and prosper and
8 provide the energy we need.

9 SENATOR KNIGHT: And your answer to the question
10 of whether renegotiations of contracts by the Governor, it
11 doesn't have any effect on the construction of new power plants?

12 MR. GUARDINO: That's not my area of expertise to
13 be able to comment effectively.

14 SENATOR KNIGHT: Do you have an opinion on it?

15 MR. GUARDINO: I hate to go where my facts can't
16 back me up one way or another.

17 CHAIRMAN BURTON: Witnesses in support?

18 Sorry, Senator Karnette.

19 SENATOR KARNETTE: I was real interested in your
20 remarks about working together with other agencies. I think
21 that we really need to do more of that, because I hear from this
22 group and the other group, and I don't know that the groups are
23 talking to each other.

24 My question is, do you think it's going to be
25 possible for ISO and FERC to ever come to any kind of a
26 reasonable agreement on the roles, the individual functions and
27 roles, of the two groups?

28 MR. GUARDINO: We certainly hope so. I will not

1 soon forget a recent ISO hearing where FERC made it clear that
2 they felt we were -- that we should be disbanded, and we were
3 therefore illegal, and they should take us off to jail.

4 And the Attorney General was saying, if we
5 disbanded, we were then being illegal relative to the State of
6 California law, and he would haul us off to jail.

7 So, I had to make a decision: Would I prefer a
8 federal penitentiary or a state penitentiary?

9 [Laughter.]

10 So yes, we are hoping we can work that out. I
11 have a very personal stake in whether we work out that
12 relationship.

13 [Laughter.]

14 SENATOR KARNETTE: I hope so.

15 Thank you.

16 MR. GUARDINO: Thank you.

17 CHAIRMAN BURTON: Call the roll.

18 SECRETARY WEBB: Senator Karnette.

19 SENATOR KARNETTE: Aye.

20 SECRETARY WEBB: Karnette Aye. Senator Knight.

21 SENATOR KNIGHT: Aye.

22 SECRETARY WEBB: Knight Aye. Senator Romero.

23 SENATOR ROMERO: Aye.

24 SECRETARY WEBB: Romero Aye. Senator Johnson.

25 SENATOR JOHNSON: Aye.

26 SECRETARY WEBB: Johnson Aye. Senator Burton.

27 CHAIRMAN BURTON: Aye.

28 SECRETARY WEBB: Burton Aye. Five to zero.

1 CHAIRMAN BURTON: Congratulations, Carl.

2 MR. GUARDINO: Thank you, Senator.

3 [Thereupon this portion of the
4 Senate Rules Committee hearing
5 was terminated at approximately.
6 11:35 A.M.]

7 --ooOoo--


CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11 day of October, 2003.


EVELYN J. MIZAK
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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

BILL BAILEY, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

JAMES D. BOYD, Member
State Energy Resources Conservation and Development Commission

SENATOR BYRON SHER

TAMERON B. MITCHELL, Chief Deputy Director
Social Services Department

JO WEBER, Assistant Director
Department of Public Social Services
County of Riverside

JANE HENDERSON, Executive Director
California Children & Families Commission (Prop. 10)

LAURIE TRUE
California WIC Association

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: James Boyd, State Energy Commission.

Senator Sher.

SENATOR SHER: Mr. Chairman and Members of the Committee, I have the pleasure to appear before you to introduce Mr. Jim Boyd. Mr. Boyd, a native Californian, is before you today for confirmation as a member of the State Energy Resources Conservation and Development Commission.

I've known Jim Boyd for many years. I first came to know him when he was the Chief Executive Officer of the California Air Resources Board, an agency with which I have considerable contact. He served 15 years in that position, and during his tenure there, the Air Resources Board led the nation in establishing new and innovative pollution control programs for motor vehicles and their fuels.

In 1998, Mr. Boyd moved to become the Assistant Director for the California Department of Fish and Game. Then in 1999, he was appointed energy adviser to the California Resources Agency Secretary.

Recently Jim was appointed to the Energy Commission. In his work at the Energy Commission thus far, he's been an active supporter of promoting renewable energy resources to help address the state's energy needs. He has been involved in helping to address climate registry problems in the state, and has generally been a supporter of sensible and effective environmental protections for California.

1 Therefore, I would urge the Committee to give
2 Mr. Boyd your favorable consideration.

3 CHAIRMAN BURTON: Thank you, Senator.

4 Mr. Boyd.

5 MR. BOYD: Thank you Chairman Burton.

6 Mr. Chairman and Members, I want to thank Senator
7 Burton for graciously -- Senator Sher, my good friend, for
8 graciously introducing me today.

9 [Laughter.]

10 MR. BOYD: I guess I just lost that friendship.
11 I was going to thank him for his years of dedicated service in
12 energy legislation and environmental legislation, but I'll save
13 that for another time.

14 I'm very appreciative of the opportunity to
15 address you here briefly today on my candidacy for the
16 Commission, which we say in shorthand, the California Energy
17 Commission rather than repeat that long title.

18 But first, I would like to introduce you to the
19 members of my family who are present today. My wife Kathy and
20 my daughters, Lisa Piers and Amy Boyd, are sitting here in the
21 front row. I thank them for coming.

22 My son Paul was unable to be here today. He
23 lives in San Francisco, and like many others at this time, he's
24 trying to keep his investment firm moving forward. I encouraged
25 him to do that and don't ask dad for money in the future.

26 In any event, as you've seen from my resume, I've
27 devoted most of my working life to public service. As Senator
28 Sher indicated, a native Californian and a fourth generation

1 Californian. My mother's family goes deep into the Bay Area
2 over many years.

3 It's been particularly rewarding for me to
4 contribute to the progress of the Golden State in a host of
5 positions. If confirmed to this position, I hope and look
6 forward to continuing to serve, as I say, my native state.

7 I think it's fairly true that energy fuels the
8 engines that move the California economy forward. As I
9 indicated in my statement of goals that was requested by this
10 committee, there is an abundance of issues that need to be
11 addressed. In other words, plenty of work for me to do if we're
12 going to meet California's energy needs for the future.

13 Many agencies and many people are working to sort
14 out the lessons learned from electricity problems that beset our
15 state. Adequate electricity system infrastructure, that is
16 generation, transmission and distribution facilities need to be
17 provided. Adequate safeguards need to be provided to assure
18 that just and reasonable rates are in place to protect
19 California consumers.

20 In particular, I feel we need to devise and
21 implement efficiency and demand management programs to minimize
22 the need for costly infrastructure additions. The CEC has very
23 aggressive programs in both these areas and is further working
24 in what I believe is a precedent setting manner with both the
25 PUC and the Power Authority on demand management programs for
26 California.

27 And for energy security, we need to diversify our
28 portfolio of energy generation with renewable generation, which

1 is something that's been near and dear to my heart for a long
2 time. Our new portfolio standards legislation will go a long
3 way in helping us address that need.

4 I will continue to work with others to assure
5 that our demands for a cleaner burning natural gas is met by
6 adequate supplies coming to California, and that we maximize our
7 use of our own domestic California supplies, and that we have,
8 again, adequate infrastructure in the state to deliver these
9 supplies.

10 Finally, the state's need for transportation
11 fuels remains a major issue that will be with us for some time.
12 We see a lot about price spikes in the paper, but there are many
13 deep-seated issues that need to be addressed. Assuring adequate
14 supply, addressing the need for demand reduction through
15 efficiency measures, somewhat unique in transportation, and
16 addressing energy security through maybe supply diversity, are
17 issues that we have got to confront.

18 And also the fact that California, unlike most of
19 the world, it's the transportation sector that contributes most
20 to the greenhouse gas emissions, that we have to deal with that
21 issue. It needs to be addressed.

22 I'm confident that my many years with
23 transportation programs and issues related to transportation,
24 both in air quality and other positions I've held, will indeed
25 aid me in seeking resolution to these problems.

26 Finally, I think reinstating the Energy
27 Commission's historic role of energy data collection and
28 analysis, and long-term energy forecasting is critical to

1 California and our economic future, as we discovered, sadly,
2 during the electricity crisis. SB 1389 by Senator Bowen, which
3 was passed by you last year, requiring the preparation of an
4 Integrated Energy Policy Report and that one be submitted every
5 two years to the Legislature, I think, is the key point and was
6 critical to addressing the need in this arena. I look forward
7 to contributing to that product.

8 I thank you very much for your time and
9 consideration.

10 CHAIRMAN BURTON: Is the Energy Commission the
11 one that spends the money on those ads, like, "Save energy," or
12 "Turn off the light when you leave the room?" Who is that?

13 MR. BOYD: For the past year, actually the
14 Department of Consumer Affairs --

15 CHAIRMAN BURTON: Do you know how much they
16 spent?

17 MR. BOYD: No, I actually don't. But I can find
18 that out.

19 CHAIRMAN BURTON: We ought to find that out. I
20 think it's a hell of an idea. But also I just wonder how much
21 money they're spending, and whether it could be better used.

22 I was reading the thing about the MTBE. And the
23 Governor ordered a phase-out. Then, citing escalating fuel
24 prices, he reset the deadline from basically a year. Then, as
25 I'm reading a document that we have, that the gasoline with
26 ethanol is cheaper than the gasoline with MTBE.

27 So, do you have any concept of what he was
28 talking about? If you don't, it's all right too.

1 MR. BOYD: I'm very familiar with this issue of
2 MTBE.

3 I'm not familiar with the fact that gasoline with
4 ethanol will be any cheaper than with MTBE.

5 CHAIRMAN BURTON: Well, it says, "... stations
6 that sell MTBE-free gasoline are likely to have a competitive
7 edge."

8 A lot of them, in fact, I was down in L.A., and I
9 mean, like, they're advertising it, and the price was down.

10 MR. BOYD: Well, gasoline made with ethanol will
11 cost a little bit more than gasoline with MTBE. The
12 infrastructure to do that is more complex and --

13 CHAIRMAN BURTON: Once the infrastructure's in
14 place?

15 MR. BOYD: Well, it's requiring a change in
16 infrastructure, and there may be added costs. But I do notice
17 that those companies that have all ready converted are still
18 competitive with the stations that sell just MTBE gasoline.

19 CHAIRMAN BURTON: Senator Johnson.

20 SENATOR JOHNSON: No questions.

21 CHAIRMAN BURTON: Senator Romero.

22 SENATOR ROMERO: No questions.

23 CHAIRMAN BURTON: Senator Knight.

24 SENATOR KNIGHT: No questions.

25 CHAIRMAN BURTON: Senator Karnette.

26 SENATOR KARNETTE: No questions. We went over
27 everything.

28 CHAIRMAN BURTON: Witnesses in support?

1 Witnesses in opposition?

2 Move the nomination.

3 SECRETARY WEBB: Senator Karnette.

4 SENATOR KARNETTE: Aye.

5 SECRETARY WEBB: Karnette Aye. Senator Knight.

6 SENATOR KNIGHT: Aye.

7 SECRETARY WEBB: Knight Aye. Senator Romero.

8 SENATOR ROMERO: Aye.

9 SECRETARY WEBB: Romero Aye. Senator Johnson.

10 SENATOR JOHNSON: Aye.

11 SECRETARY WEBB: Johnson Aye. Senator Burton.

12 CHAIRMAN BURTON: Aye.

13 SECRETARY WEBB: Burton Aye. Five to zero.

14 CHAIRMAN BURTON: Congratulations.

15 MR. BOYD: Thank you very much, Senators.

16 CHAIRMAN BURTON: Tameron Mitchell, Chief Deputy
17 Director, Social Services.

18 Go ahead, ma'am.

19 MS. MITCHELL: Good afternoon, Mr. Chairman and
20 Members of the Senate Rules Committee. My name is Tameron
21 Mitchell.

22 I appreciate the opportunity to appear before you
23 today in seeking your concurrence in my nomination to serve as
24 the Chief Deputy Director of the State Department of Social
25 Services. It's an honor to be selected for this position by the
26 Governor.

27 I oversee a number of programs in the Department
28 of Social Services, including Community Care Licensing, which

1 licenses thousands of facilities that provide care for child
2 care centers, foster homes, and facilities that care for the
3 elderly.

4 In addition, I oversee programs that serve the
5 aged, blind, and disabled to help them to live independently and
6 with dignity, such as the In-Home Supportive Services program
7 and the SSI-SSP program, as well as the Adult Protective
8 Services program.

9 It's indeed a privilege to serve in the
10 Department of Social Services, to aid in achieving our mission
11 to serve, aid and protect vulnerable children, adults and other
12 vulnerable populations in ways that strengthen and preserve
13 families, encourage personal responsibility, and foster
14 independence.

15 I am also a native Californian. I bring to this
16 position over 27 years of proven administrative ability to
17 administer health and social services programs at both the state
18 and the county level. For the past 23 years, I've had the
19 privilege to serve in California state service. I was
20 previously at the Department of Health Services for a number of
21 years and led a number of major initiatives in maternal and
22 child health, primary care, teen pregnancy prevention, and
23 public health nutrition programs such as WIC.

24 I have always strived to be accountable, open,
25 and responsive, to seek collaborative approaches to solving
26 problems. I have worked closely with many of your staff in
27 implementing and developing these initiatives.

28 In the Department of Social Services, I apply my

1 strong health background to approach complex issues with an eye
2 towards integration and coordination in breaking down barriers
3 across programs.

4 I've submitted my resume to you and a description
5 of my primary goals for the Department. These goals emphasize
6 removing barriers to independence in our programs that assist
7 the aged, blind, and disabled, and assuring that there are
8 strong health and safety protections for the 1.4 million people,
9 Californians, who are served in over 85,000 community care
10 facilities that are licensed by the Department that provide care
11 for foster children, the elderly, the disabled, and families who
12 depend on child care.

13 I have enjoyed the opportunity to meet with most
14 of you or your staff recently to discuss your issues of primary
15 concern and interest. I'll be happy, of course, to answer any
16 questions, and I thank you for your consideration.

17 CHAIRMAN BURTON: There was a question dealing
18 with when you were with Health Services that actually, in a way,
19 spills over to this because most of the people on SSI-SSP,
20 probably all of them, are on MediCal.

21 Given the administration's request to reduce
22 provider payments, what kind of impact do you think that's going
23 to have on the ability to find providers who are willing to care
24 for MediCal patients? Do you see that being a potential
25 problem?

26 MS. MITCHELL: Well, just -- the main point,
27 Senator, is that all of the choices that were --

28 CHAIRMAN BURTON: It's just a simple question. I

1 know all the choices were tough.

2 The question is, and I think the question answers
3 itself, but it's going to be difficult to find providers. Let's
4 assume that that's the answer.

5 Then, do you have or can you think of any idea as
6 to how we're going to be able to figure out a way to care for
7 these people without dumping them on the counties?

8 MS. MITCHELL: Well, certainly the SSI-SSP
9 population is extremely vulnerable. The In-Home Supportive
10 Services program, there will still be those services available
11 to that population for their medical needs.

12 CHAIRMAN BURTON: That's not going to help them
13 if they've got high blood pressure.

14 MS. MITCHELL: That's true.

15 CHAIRMAN BURTON: We're not talking about IHSS
16 people. I don't want to be argumentative about it. I mean, you
17 know what I'm talking about. I know you want to defend the
18 administration, make believe we're just having a discussion
19 here, because we're wondering how it's going to, you know, how
20 we're going to find doctors. It's tough to find them now. How
21 are we going to find them in the future?

22 I know or I read that at the national level, that
23 the Bush administration is going to be reducing payments to
24 Medicare providers.

25 Has anybody ever given any thought to figure out
26 how to kind of make this thing work, so to speak? Do you have
27 any ideas on that, even though it's not what you're doing now,
28 but it affects the clients that are under you.

1 MS. MITCHELL: It certainly does. There is a lot
2 of cross-over between the departments, and we'll work with the
3 Department of Health Services.

4 We hope that -- and we'll do everything we can to
5 try to assure that, through provider outreach, and to try to
6 ensure that there's coverage.

7 Will there be an impact? There may be. It's
8 always -- it's very difficult to cut rates to providers. You're
9 always very concerned about access of people who need medical
10 care.

11 CHAIRMAN BURTON: The question is, do you know
12 whether or not there's even a task force where somebody's trying
13 to figure out, if there's just a certain amount of money in a
14 pot for provider fees, how they can feed the multitude on three
15 fish and two loaves, or whatever? Because I think that's
16 something that we're going to have to deal with.

17 I think it would be helpful if the people that
18 are much smarter than us in the Department might figure a way,
19 that's all. Because it's going to be tough in outreach, unless
20 you're reaching out to find doctors that are willing to go broke
21 taking care of the poor. I don't know how that's going to do
22 it.

23 The budget proposes to put an end to the annual
24 inspection of community care facilities, which would be child
25 care facilities, residential settings, and adult senior
26 care.

27 You know, we tend to find that there's an awful
28 lot of violations with inspections.

1 What are they going to go to, self-certification
2 or what? How are they going to make that work?

3 MS. MITCHELL: What we're proposing to do is to
4 target our visits. So, for facilities -- to all facilities,
5 facilities that need to be visited every year, for example,
6 facilities that are new, newly licensed, facilities who have had
7 complaints made against them, or we've investigated and found a
8 problem, facilities that are on probation because of prior poor
9 performance, things like that, we will visit those facilities
10 annually and continue to inspect those facilities. And that
11 will be about 10 percent of all the 85,000 facilities that we
12 license.

13 And then for the others, we'll do a targeted --
14 we'll do a random sample, where we'll do an unannounced visit of
15 a random sample of about 10 percent of the facilities.

16 None of those facilities will know when we're
17 coming, how frequently we're coming. So, they'll know we'll be
18 there, they just won't know when.

19 So, we will continue to visit.

20 CHAIRMAN BURTON: At the present, like, they know
21 when you're coming?

22 MS. MITCHELL: They don't now, but since we visit
23 most facilities annually, they may have an idea as to when we
24 may be back. If we've been back one year at a certain time,
25 they may have a sense we'll be back about the same --

26 CHAIRMAN BURTON: So they'll know when to change
27 the sheets, or whatever.

28 MS. MITCHELL: In this way, we will continue to

1 monitor.

2 And any time there's a complaint, we will be out
3 within 10 days to look at that.

4 CHAIRMAN BURTON: Would the cutbacks at the state
5 level and cutbacks at the county level, probably eligibility
6 workers and things of this sort, is there going to be any
7 backlog in determining SSI-SSP eligibility and benefits? How's
8 that going to work?

9 MS. MITCHELL: I don't anticipate there'll be any
10 backlog in SSI-SSP eligibility, sir. I don't believe that the
11 budget reduction would affect that.

12 The disability eligibility is done also in our
13 department.

14 CHAIRMAN BURTON: Aren't you going to have
15 reductions?

16 MS. MITCHELL: Those positions are funded with
17 federal funds, and that's a large number of the positions in our
18 department. And I don't foresee that that will be affected by
19 this proposal.

20 CHAIRMAN BURTON: Has somebody been looking at
21 the federal budget to see that that money's going to be there?

22 MS. MITCHELL: As far as we know, that's not --
23 that's not an issue.

24 CHAIRMAN BURTON: Senator Johnson.

25 SENATOR JOHNSON: No questions.

26 CHAIRMAN BURTON: Senator Romero.

27 SENATOR ROMERO: I have a couple, just questions
28 about child care in particular.

1 Can you let us know about the Department, whether
2 or not the Department is now reviewing the requests for a waiver
3 to work in a child care facility, or are all of these basically
4 still being dismissed?

5 MS. MITCHELL: The waiver for --

6 SENATOR ROMERO: We're talking about those with a
7 criminal background.

8 MS. MITCHELL: Oh, the criminal background.

9 Yes, currently there is a moratorium on approving
10 requests for anyone who has any sort of a criminal background.
11 We're not approving those at this time. There is a moratorium
12 that is currently under way.

13 Anybody who doesn't have a criminal background,
14 of course, is going to work in facilities.

15 Those that have criminal backgrounds that aren't
16 of a violent nature or a potentially violent nature are allowed
17 to go ahead -- they are allowed to go ahead and continue working
18 in the facility during the moratorium. So, they're not being
19 excluded from the facility while the moratorium is under effect.

20 SENATOR ROMERO: So, the moratorium is on those
21 who would have a violent criminal offense as opposed to maybe
22 something like a drunk driving arrest?

23 MS. MITCHELL: Something like that, or petty
24 theft, or something that doesn't involve violence.

25 The Department, when anyone goes to work in a
26 facility, in a child care facility, their finger prints are
27 submitted to the Department of Justice, also to the FBI, as well
28 as it's checked against the Child Abuse Index.

1 Anybody who has a record in those files, in order
2 to work in a child care facility they must get an exemption from
3 the Department. And we look at the background and evaluate
4 whether that person may pose risk of health and safety.

5 SENATOR ROMERO: How long do you anticipate the
6 moratorium will continue?

7 MS. MITCHELL: The moratorium is in effect while
8 the Department is reviewing its processes. The Governor asked
9 us to look at all of our policies and procedures for reviewing
10 criminal records, and that is underway.

11 So, as soon as those recommendations have been
12 reviewed by the administration, we will be then prepared to make
13 those changes and lift the moratorium that's in effect right
14 now.

15 SENATOR ROMERO: Thank you.

16 CHAIRMAN BURTON: Senator Knight.

17 SENATOR KNIGHT: No questions.

18 CHAIRMAN BURTON: Senator Karnette.

19 SENATOR KARNETTE: Is it possible to have
20 flexibility in your budgets?

21 For example, if you had some money left over from
22 the federal government, which probably wouldn't happen, but if
23 you did, can you use it in some other way?

24 And if you know you have money now, can you use
25 that money and later refill the hole that you've taken it from?

26 MS. MITCHELL: In some programs we can, such as
27 in CalWORKS, the funds can be rolled over. It depends on the
28 program. So, some programs yes, some programs no.

1 Some programs where they can be, we of course do
2 that, and then use the funds for those purposes in the coming
3 year. So then, it reduces the need for funds in the future.

4 SENATOR KARNETTE: Are there some that you need
5 to be able to use that you can't now? Maybe we could help.

6 MS. MITCHELL: That's an interesting question.

7 I don't know of anything offhand, but it's
8 certainly something I'll go back and check in the Department.
9 But there's nothing that -- any major problems that that's
10 causing us at the current time.

11 SENATOR KARNETTE: Well, what I'm concerned about
12 is that we're letting any money lie fallow that we aren't using
13 right now that we could be. That's really what I'm getting at.

14 MS. MITCHELL: Unfortunately, I don't think so.
15 Where there are opportunities to do that, we maximize those
16 opportunities.

17 SENATOR KARNETTE: Thank you.

18 CHAIRMAN BURTON: Did you have any family
19 here?

20 MS. MITCHELL: Yes, I do. Thank you for the
21 opportunity.

22 I'd like to recognize my parents, Don and Laurie
23 Brink, and also my husband, David Mitchell.

24 CHAIRMAN BURTON: Witnesses in support.

25 MS. WEBER: Thank you, Mr. Chair. I sympathize
26 with your illness.

27 I'm Jo Weber, Assistant Director with the
28 Riverside County Department of Public Social Services.

1 I have known and worked with Ms. Mitchell for
2 five years, and I've always found her to be fair-minded and
3 educated about the issues and influences concerning our
4 programs, and concerned about the welfare of those that we serve
5 in the field of human services.

6 Through her influence on state policy, she's
7 shown great compassion and respect and generosity for the
8 vulnerable citizens of our state.

9 I strongly support her confirmation as Chief
10 Deputy Director.

11 MS. HENDERSON: Good afternoon, Mr. Chairman and
12 Members.

13 I'm Jane Henderson, Executive Director of the
14 California Children and Families Commission, otherwise known as
15 Prop. 10.

16 And I also am here in support of Tameron
17 Mitchell. I have worked with Tam and known her for well over
18 ten years. We have focused on creating better state level
19 collaboration among state agencies and building partnerships
20 with private foundations.

21 I have a very high regard for her work, her
22 organizational capacity, her ability to get the work done.
23 She's honest, she's forthright, she takes initiative. She's
24 responsive.

25 We have a number of programs that we are
26 implementing in conjunction with the Department of Social
27 Services, and Ms. Mitchell's leadership will assist us in
28 continuing that state level partnership.

1 I encourage her appointment.

2 Thank you.

3 MS. TRUE: Mr. Chairman and Members, Laurie
4 True, California WIC Association.

5 I guess I've known Tameron the longest, 15 years
6 or so, probably more; I've lost count, because I've been a
7 long-time hunger and WIC advocate, and she started out in the
8 WIC program at the Department of Health Services, even at the
9 county, in Tulare County.

10 She's unflappable. She's dedicated, she's
11 committed. She's very articulate. She implements, you know,
12 her boss's vision.

13 I'm not sure I really envy her position now
14 because it's going to be a very tough year, but I'm glad to have
15 her in the Department protecting, as well as she can, vulnerable
16 and low-income families in California.

17 Thank you.

18 CHAIRMAN BURTON: Witnesses in opposition?

19 I move the nomination.

20 SECRETARY WEBB: Senator Karnette.

21 SENATOR KARNETTE: Aye.

22 SECRETARY WEBB: Karnette Aye. Senator Knight.

23 SENATOR KNIGHT: Aye.

24 SECRETARY WEBB: Knight Aye. Senator Romero.

25 SENATOR ROMERO: Aye.

26 SECRETARY WEBB: Romero Aye. Senator Johnson.

27 SENATOR JOHNSON: Aye.

28 SECRETARY WEBB: Johnson Aye. Senator Burton.

1 CHAIRMAN BURTON: Aye.

2 SECRETARY WEBB: Burton Aye. Five to zero.

3 CHAIRMAN BURTON: Congratulations.

4 MS. MITCHELL: Thank you.

5 [Thereupon this portion of the

6 Senate Rules Committee hearing

7 was terminated at approximately.

8 2:08 P.M.]

9 --ooOoo--

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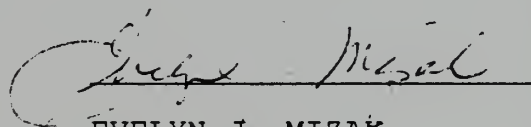
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IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of January, 2003.


EVELYN J. MIZAK
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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

MICHAEL KAHN, Member
California Independent System Operator Governing Board

CARL GUARDINO, Member
California Independent System Operator Governing Board

SENATOR JOE DUNN

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Committee will be back in session. Michael Kahn, Member of the Independent System Operator Governing Board.

Are you here as a member or Chair, or what?

MR. KAHN: A member, sir.

CHAIRMAN BURTON: Who is the Chair?

MR. KAHN: I'm the Chair, but the Chair is elected by the members. I think it's also approved by the EOB.

CHAIRMAN BURTON: Is that between Powell and what?

MR. KAHN: It's right across the street from Fairmont.

CHAIRMAN BURTON: Go ahead.

MR. KAHN: Thank you, Mr. Chair.

My name is Michael Kahn.

CHAIRMAN BURTON: So you moved or what? Do you live on Powell or Jackson?

MR. KAHN: I live on Powell.

CHAIRMAN BURTON: Just checking. Go ahead.

MR. KAHN: First of all I'd like to thank the Committee for arranging their schedule to accommodate mine. I really appreciate that.

I've been the Chair of the ISO since January of 2001. Prior to that time for a year I was the Chair of the Electricity Oversight Board.

When I took over as the Chair of the ISO, we were

1 in extreme crisis in January of 2001. We were threatened with
2 blackouts on a daily basis. We had Stage Three virtually every
3 day. The price of electricity when I took over as Chairman of
4 the ISO was running at \$70 billion dollars a year for what we
5 paid 7 billion for in the past. In addition, we had -- our
6 utilities were bankrupt and the Power Exchange was defunct.

7 Today many of these problems are under control.
8 The prices are dramatically lower, and for the foreseeable
9 future, or at least for the immediate future, supply has been
10 provided.

11 But there are significant structural problems in
12 the electricity situation in California. We are still
13 vulnerable to price spikes in the future. We are vulnerable to
14 prices up to the price cap that has been raised to 250. We are
15 vulnerable to supply manipulation. And finally, we face a
16 governance crisis.

17 There is much work to be done. We have to solve
18 the structural issues and we have to solve the governance
19 issues.

20 Every day for the last two-and-a-half years, I
21 have worked on the electricity crisis for California. It's been
22 my privilege to do so. If it is your will, I will devote my
23 time as ISO member and as Chair to solving the immediate
24 governance issues, the structural issues, and to lead ISO out of
25 its transition period into a more stable period.

26 Thank you, Mr. Chair.

27 CHAIRMAN BURTON: There's still two vacancies?

28 MR. KAHN: Yes, sir.

1 CHAIRMAN BURTON: Tal Finney resigned December
2 2nd, and then Maria Contreras-Sweet.

3 When did John Geesman retire?

4 MR. KAHN: I think he resigned when he went to the
5 Energy Commission, which was, I think, the middle of last year.

6 CHAIRMAN BURTON: So they've been short one
7 member for about seven months, and then Tal's slot for about two
8 months.

9 MR. KAHN: Something like that, yes.

10 CHAIRMAN BURTON: The funding for ISO comes from
11 whom?

12 MR. KAHN: The funding for ISO comes from the
13 transmission charge on utility bills, which comes directly from
14 the utility bills, and the rates that are charged are approved
15 by FERC, the Federal Energy Regulatory Commission.

16 There's a proceeding that occurs which sets the
17 rates within FERC.

18 CHAIRMAN BURTON: When FERC directed ISO to
19 replace the current Board with a new two tier governance
20 structure, what would that have been? Right now it's a five
21 member board with three members on it, appointed by the Governor
22 and confirmed by the Senate.

23 MR. KAHN: Yes, sir.

24 CHAIRMAN BURTON: What is the two-tier solution?

25 MR. KAHN: Well, FERC made two orders in 2000.
26 In November, 2000, FERC abandoned the then-existing board and
27 ordered that a new board be selected by head-hunter process that
28 was going to be conducted by the old board. The Legislature --

1 CHAIRMAN BURTON: By what process?

2 MR. KAHN: A process where they would use a
3 head-hunter to select the candidates, and then the candidates
4 would be chosen by FERC.

5 CHAIRMAN BURTON: What about the July 17th deal?

6 MR. KAHN: Then, when the Legislature and the
7 Governor decided that that was unacceptable and appointed this
8 board, five members, for one year. That went on, and FERC did
9 nothing for a year-and-a-half.

10 FERC this summer instructed the President of the
11 Board -- excuse me, the President of the organization, Terry
12 Winter, to begin a process of selecting head-hunters to select a
13 new board and a new structure.

14 The Board instructed Mr. Winters --

15 CHAIRMAN BURTON: I'm trying to understand what
16 the two-tier structure is.

17 MR. KAHN: I don't fully understand the
18 structure, except to say that it's fully -- it's under FERC's
19 control of who chooses who the Board members are, and they are
20 chosen by a head-hunter process whereby the head-hunter selects
21 people who have certain kinds of characteristics: energy
22 experience, et cetera.

23 And then those people are -- first the
24 head-hunters are selected, and then the members are selected,
25 and then FERC gets to decide whether to choose them or not.

26 CHAIRMAN BURTON: So, they have head-hunters
27 going around to find people that have jobs that don't pay money?
28 I mean, they're nonpaying jobs, right? Do you get a per diem?

1 MR. KAHN: The Chair is entitled to \$20,000 a
2 year.

3 CHAIRMAN BURTON: How about anybody else?

4 MR. KAHN: I think everybody else gets \$500 a --
5 I think everybody else gets 500 meeting. I think the Chair
6 might also get 500 a meeting. I don't know how much the Chair
7 or the individual gets.

8 CHAIRMAN BURTON: Now, you mentioned somebody who
9 was the President of the Commission?

10 MR. KAHN: Right. The FERC had ordered the
11 President of the organization, of ISO, who's Mr. Terry Winter,
12 to take --

13 CHAIRMAN BURTON: How did he get elected?

14 MR. KAHN: Mr. Winter was hired by the original
15 ISO Board, I think, four or five years ago. He was one of the
16 first --

17 CHAIRMAN BURTON: As President as opposed to like
18 Executive Officer?

19 MR. KAHN: No, he was selected as President. The
20 organization works with -- it's a nonprofit benefit corporation,
21 and the organization was set up by -- this was all before my
22 time -- but it was set up by selecting a President, a Vice
23 President, a General Counsel to mirror other corporations. And
24 that's how it was set up, and Mr. Winter's had that job for many
25 years, well before I got involved.

26 But he was ordered to do things, to replace the
27 Board, and the Board ordered him to not do any of those things,
28 and he has complied with the Board. So, no steps have been

1 taken to comply with FERC.

2 CHAIRMAN BURTON: So, we don't know what the
3 two-tier system is. Is it like a bicameral house or what?

4 MR. KAHN: I don't really know, sir. The
5 position of the State of California --

6 CHAIRMAN BURTON: Forget that.

7 FERC directed --

8 MR. KAHN: A new board.

9 CHAIRMAN BURTON: -- a two-tier governance
10 structure. I'm just wondering what it would be.

11 MR. KAHN: I don't really know. The position of
12 the state was that FERC couldn't do that.

13 CHAIRMAN BURTON: No, forget the position of the
14 state.

15 Didn't they send a letter? It's kind of idle
16 curiosity. We're not at the guts of this hearing. It's sort of
17 idle curiosity what a two-tiered governance system would be.

18 MR. KAHN: Well, I think -- I'm not sure if it
19 was a two-tier governance system. All I know what it was, the
20 key part of it was, was that the state would lose any role in
21 it, and that was unacceptable.

22 CHAIRMAN BURTON: May I ask a question? Who put
23 this in my book? Where did this come from?

24 I mean, I've got a document that I guess is
25 irrelevant. It says on the 17th,

26 "... FERC directed the ISO to
27 replace the current board with
28 a new two-tier governance

1 structure"

2 I was just kind of wondering what the hell it
3 was. Anybody?

4 MR. KAHN: A note that was passed to me, it says
5 that they were going to have a stakeholder advisory committee.
6 That was the two tiers. One tier was the stakeholder advisory
7 committee, and the other was the board.

8 CHAIRMAN BURTON: And the other one was the board
9 that could listen or not to the advisory committee.

10 MR. KAHN: Yes, sir. That's what they
11 envisioned.

12 CHAIRMAN BURTON: Sounds good to me.

13 Senator Johnson.

14 SENATOR JOHNSON: No questions.

15 CHAIRMAN BURTON: Senator Romero.

16 SENATOR ROMERO: No questions.

17 CHAIRMAN BURTON: Senator Knight.

18 SENATOR KNIGHT: Heavens no.

19 CHAIRMAN BURTON: Senator Karnette.

20 SENATOR KARNETTE: I wanted to know what happens
21 if FERC refuses to approve the charges that are being levied on
22 the consumer that pays for the ISO?

23 MR. KAHN: Actually FERC, I don't think they have
24 a process for refusing to do it altogether. What they do is
25 sort of a negotiation in which there's a proceeding in front of
26 FERC. And the issue, they're setting the amount of the rate.

27 So, it's not a matter of saying yes or no. It's
28 a matter of saying whether it's too high or not high enough.

1 And it's like a rate proceeding that we have in the PUC. It's a
2 transmission charge proceeding which we have at FERC. So, they
3 -- if they think it's too high, we can't charge it.

4 And they review the budget of the ISO completely.
5 The entire budget of the ISO is thoroughly reviewed by FERC in a
6 FERC proceeding.

7 SENATOR KARNETTE: So actually, they might even
8 defund almost; they could.

9 MR. KAHN: Well, I don't think they can defund it
10 because they have a -- well, I guess they could, but statutorily
11 they have an obligation to be sure that the ISO performs
12 transmission services because they've taken it in their
13 jurisdiction.

14 So, I don't think they could defund it, but they
15 certainly could starve it.

16 SENATOR KARNETTE: I don't know what that means
17 now that I got an answer, but thank you.

18 CHAIRMAN BURTON: Witnesses in support.

19 Are you here in your capacity as a member of ISO,
20 in your capacity as the Silicon Valley Group, or both?

21 MR. GUARDINO: Thank you, Chairman Burton. I'm
22 here solely in my capacity as a colleague on the California
23 Independent System Operator Board of Governors.

24 Thank you, Mr. Chair and Members. My name is
25 Carl Guardino. Two weeks ago you were kind enough to reconfirm
26 my appointment. Thank you again for that confidence.

27 I'm here today in support of Michael Kahn's
28 confirmation. During the past two years, Chairman Kahn has

1 worked tirelessly to serve the consumers of the State of
2 California.

3 He is articulate, passionate, ethical,
4 knowledgeable, and solely committed to protecting the ratepayers
5 and taxpayers of California. I'm proud to serve with him, and
6 respectfully urge you to confirm him today.

7 Thank you very much.

8 SENATOR JOHNSON: Does he work tirelessly really,
9 or just diligently?

10 MR. GUARDINO: I would say actually, Senator,
11 both, yes.

12 SENATOR JOHNSON: He's a better man than any of
13 us.

14 CHAIRMAN BURTON: Thanks, Carl.

15 MR. GUARDINO: Thank you, Senator.

16 CHAIRMAN BURTON: Did you have any family here?
17 No.

18 Witnesses in support? Witnesses for comments?
19 Senator Dunn.

20 SENATOR DUNN: Thank you, Senator Burton, fellow
21 Members. I will be brief.

22 I come before the Committee most respectfully but
23 to oppose the confirmation.

24 The comments you just heard from Carl I agree
25 with one hundred percent. The thrust of my comments are not
26 directed at Michael Kahn, because I do agree with all the
27 comments that Carl and others have made about him.

28 But rather, it's about senior management,

1 management that is still in place. And to quote former
2 President Ronald Reagan, although I'll butcher the statement,
3 senior management is not part of the solution; it is part of the
4 problem as we try to solve California's energy crisis.

5 Three main points about senior management.

6 First, we have found in the Investigation
7 Committee, and I know other policy committees in the Senate have
8 found, senior management to be uncooperative, to say the least,
9 with respect to many of our inquiries and our seeking of
10 information.

11 I do want to make a personal comment. Their
12 General Counsel, Charlie Robinson, has been a great assistance
13 in overcoming many of those oppositions or obstacles provided by
14 senior management. But still, it's a day-to-day struggle with
15 senior management, whether it's getting information on C66, or
16 MD02, or any of the other critical issues.

17 As most of you may be aware, senior management
18 was quoted last week in the Sacramento Bee, I believe it was,
19 reflecting not much of a respectful attitude towards the
20 political process and us, quote, "politicians," end quote.

21 Second, senior management cannot shed the events
22 of December 8th, 2000. That is the event, that is the day, that
23 the last remaining price caps were eliminated by FERC in
24 response to senior management's emergency petition.

25 That move by senior management was not only
26 insubordination to the then-existing ISO Board which did not
27 give him approval, and he did not ask, because he said in a
28 sworn deposition he knew they wouldn't give him approval to do

1 that. It also, in my humble view, constituted outright treason
2 to the citizens of California, because it was the removal of
3 those price caps on December 8th that thrust us into the depths
4 of the energy crisis we found in December, January, February and
5 on of 2001.

6 Third, in my humble view this senior management
7 is not capable of running the very complex grid that the ISO is
8 charged the responsibility to do on a day-in and day-out basis,
9 whether that's events like C66, or the inability to detect and
10 attack phantom congestion, whether it's their handling of the
11 Perot Systems problems whose roots have extended well into
12 today's operation of the ISO, including things as far as the
13 retention of their counsel in Washington, D.C.

14 Most of you may not be aware, but our ISO has a
15 Washington, D.C. office. It's in a law office, a law office by
16 the name of Swidler Berlin. Swidler Berlin represents many of
17 the energy participants throughout the nation and includes, we
18 understand now, the upper management of Enron as a result of
19 potential investigations. That is the same legal counsel that
20 is representing our ISO on a variety of matters, particularly in
21 its relationship to FERC.

22 As I started my comments, my opposition is not
23 about Michael Kahn. I believe Michael is everything Carl has
24 said, and all my dealings with him have shown that to be true.

25 But there comes a time when, if part of the
26 problem is a troubled senior management, that senior management
27 must be dealt with.

28 My hope and prayer is that senior management will

1 be dealt with. And until such time, I most respectfully oppose.

2 Thank you, Mr. Chair.

3 CHAIRMAN BURTON: Senator Johnson.

4 SENATOR JOHNSON: Question.

5 First of all, I'm a little unclear as to how
6 you're defining senior management. You made some reference to
7 counsel, but what in your mind is senior management?

8 SENATOR DUNN: There are two individuals. I
9 believe Mr. Kahn corrected it. I thought Mr. Winter was CEO,
10 but apparently he's President of the ISO.

11 He has one individual that serves very, very
12 closely to him, who advises him.

13 My criticism when I say senior management is
14 directed at those two in particular.

15 SENATOR JOHNSON: What is the role of the ISO
16 Board or Chairman in that process? Is it something that's
17 unilaterally within the purview of Mr. Kahn?

18 SENATOR DUNN: It is my understanding that the
19 management shall carry out the directives and policy decisions
20 made by the ISO Board. They are completely responsive, as is
21 traditional in an organization like that, to the Board itself,
22 Senator Johnson.

23 SENATOR JOHNSON: That leaves the next logical
24 question, why are you here opposing this nominee and did not
25 oppose the folks that we dealt with a couple of weeks ago,
26 Mr. Guardino and Mr. Florio?

27 SENATOR DUNN: Because it is my view that the
28 Chairman of the Board is the best person to engage these

1 discussions with, Mr. Johnson.

2 SENATOR JOHNSON: Well, let's suppose that he was
3 just absolutely in one hundred percent agreement with you.

4 SENATOR DUNN: Yes.

5 SENATOR JOHNSON: But these questions weren't
6 raised of the folks we confirmed just a couple of weeks ago.

7 So, I'm at a loss to follow the fairness of
8 rejecting, or considering rejecting, this nominee when it wasn't
9 even a part of the discussion with the earlier nominees.

10 SENATOR DUNN: Yes. Senator Johnson, just for
11 background, the discussions were already underway when
12 Mr. Guardino and Mr. Florio were here to testify.

13 SENATOR JOHNSON: They were all three scheduled
14 to be heard at the same time, and it's my understanding that
15 this nomination was put over at your request.

16 SENATOR DUNN: Yes, sir.

17 SENATOR JOHNSON: But you made no such request to
18 put over the other two nominees, so I think my question is still
19 a fair one.

20 SENATOR JOHNSON: I'm not arguing, Senator
21 Johnson. It's a fair one.

22 And it was my hope at that time in direct
23 dealings with Mr. Kahn and others that this ongoing issue of
24 problems with senior management could be resolved prior to
25 Mr. Kahn's confirmation today.

26 We were unsuccessful in those endeavors, Senator
27 Johnson.

28 SENATOR JOHNSON: I'm still -- let's try one more

1 time.

2 If it was reasonable, and you said there were
3 ongoing discussions with Mr. Kahn, why didn't we put over at
4 least until the drop-dead date, those --

5 SENATOR DUNN: I can answer that for you.

6 At least from my perspective, Senator Johnson, I
7 only requested Mr. Kahn's because it was my belief that we could
8 resolve these concerns in direct discussions with Mr. Kahn.

9 Had I guessed we'd be where we are today, I would
10 have requested Mr. Florio's and Mr. Guardino's confirmations be
11 put over as well.

12 But you are correct, Senator Johnson, I agree.
13 Fair question.

14 SENATOR JOHNSON: Well, Mr. Chairman, I just feel
15 that to focus in on one member of the Board, to say somehow he's
16 responsible for questions or concerns that Senator Dunn may have
17 about top management, I feel that would be unfair.

18 And if I were the Governor, I don't know that I
19 would have appointed any of these folks.

20 But the fact is that the Governor does have the
21 authority. We have an ability to evaluate that. We did that on
22 the earlier two, and I see no real compelling difference to
23 treat this gentleman any differently than the earlier ones.

24 CHAIRMAN BURTON: He is, in point of fact, a
25 constituent of mine.

26 SENATOR JOHNSON: Hence the need to know that
27 precise distinction.

28 CHAIRMAN BURTON: If he was a Jackie Speier, we

1 could take another look at this whole issue.

2 It concerns me, because I'm one of those that
3 believe that staff work for the commissions, and commissions
4 don't work for the staff, even if the commissions are
5 part-time.

6 It would concern me, and it concerns me greatly,
7 if in fact staff goes off on their own, on frolics of their own,
8 I might add, to make decisions without, one, notifying the
9 Board, and if they're contrary to the Board's policy, not
10 notifying them intentionally.

11 I just hope that that doesn't happen.

12 The other thing that concerns me is that when the
13 President of ISO comes before Senate committees and kind of
14 stonewalls them, I don't like that.

15 And this guy's supposed to be a very bright and
16 intelligent man. And not to know and not to remember, I mean,
17 it sounds like somebody appearing before a grand jury that
18 doesn't want to invoke the Fifth, and doesn't want to commit
19 perjury. So therefore, "Well, I don't really remember," and
20 "That's not clear. It's not clear in my mind. I really can't
21 say that. I don't remember."

22 And so, we don't like that stuff. And if the day
23 ever comes, and I kind of hope it doesn't, but if he ever
24 appears, or anybody whether it's ISO or anyone else that appears
25 before this Committee, and we're trying to get information, and
26 they give us the "I don't know; I can't remember," we'll
27 probably not remember to send them a paycheck.

28 But I appreciate Senator Dunn's concern. I think

1 that I've known Mr. Kahn since the inception, almost, of the
2 energy crisis brought on by AB 1890, Brulte.

3 SENATOR JOHNSON: How were you recorded,
4 Mr. Chair?

5 CHAIRMAN BURTON: Not voting, thank you. I was
6 out of the room.

7 Anyway, we're very concerned about issues that
8 were raised by Senator Dunn. I'm just always very concerned
9 that staff people take the bit into their own hands.

10 I would think also that it is very important for
11 you to inform the Governor of those two vacancies and get the
12 commission up to snuff. I don't know whether they can bring Tal
13 Finney back again. He's been up and down for more cups of
14 coffee than his old Pacific Coast League baseball players.

15 But we need people there. I think that Irwin
16 Nowick, according to the Sacramento Bee, is available. I think
17 if you could make him, if he could be a Board member, and maybe
18 he had responsibility for the oversight of that senior staff, we
19 would see some real changes.

20 SENATOR JOHNSON: Golden parachutes.

21 CHAIRMAN BURTON: Anyway, I'll move the
22 nomination.

23 SECRETARY WEBB: Senator Karnette. Senator
24 Knight.

25 SENATOR KNIGHT: Aye.

26 SECRETARY WEBB: Knight Aye. Senator Romero.

27 SENATOR ROMERO: Aye.

28 SECRETARY WEBB: Romero Aye. Senator Johnson.

1 SENATOR JOHNSON: Aye.

2 SECRETARY WEBB: Johnson Aye. Senator Burton.

3 CHAIRMAN BURTON: Aye.

4 SECRETARY WEBB: Burton Aye. Four to zero.

5 CHAIRMAN BURTON: Congratulations, Michael.

6 MR. KAHN: Thank you.

7 [Thereupon this portion of the
8 Senate Rules Committee hearing
9 was terminated at approximately
10 11:07 A.M.]

11 --ooOoo--


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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of January, 2003.


EVELYN J. MIZAK
Shorthand Reporter

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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

ALFRED R. ANGELE, Member
Board of Prison Terms

MARVIN E. SPEED II, Executive Officer
Board of Prison Terms

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--ooOoo--

CHAIRMAN BURTON: Al Angele, Member, Board of
Prison Terms.

Go ahead.

MR. ANGELE: Chairman Burton, Vice Chairman
Johnson, Members of the Committee, Senators Karnette, Knight,
and Romero.

During the past three years as I've served as a
Commissioner on the Board Prison Terms, I've seen many positive
changes, from the appointment of Commissioner Carol Daly as
Chair, and her subsequent appointment of Marvin Speed, a Deputy
Commissioner, Marvin Speed as Executive Officer, significant
progress has been made.

Do we have problems? Yes, we still have
problems; however, genuine attempts are being made to resolve
those problems and the related issues.

During my term as a Commissioner, I've
participated in over 2,000 lifer hearings. I also participated
in documentation hearings, recission hearings, and progress
hearings.

I come before you today to seek your support in
order that I may continue to perform my duties along with the
team of professionals dedicated to the goal of the BPT, which is
preserving public safety.

CHAIRMAN BURTON: All right.

The Inspector General issued a report on the
Board of Prison Terms, particularly parole revocation process.

1 Are you familiar with that report?

2 MR. ANGELE: Yes.

3 CHAIRMAN BURTON: I know you basically deal with
4 lifer hearings, but can you tell us your reaction to the
5 report generally?

6 And then, the IG thinks you could do the work
7 with 39 deputy commissioners instead of -- there's 85
8 authorized. Do you know how many you have of the 85?

9 MR. ANGELE: No, I'm not sure.

10 CHAIRMAN BURTON: Do you know that, Nettie?

11 MS. SABELHAUS: Around 70.

12 MR. SPEED [FROM THE AUDIENCE]: There's 62 right
13 now.

14 CHAIRMAN BURTON: So, there's 62 here now, okay.

15 MR. SPEED [FROM THE AUDIENCE]: Yes.

16 CHAIRMAN BURTON: Thank you. That answers that
17 one.

18 Do you want to give your reaction --

19 MR. ANGELE: Sure.

20 CHAIRMAN BURTON: -- to the report?

21 MR. ANGELE: Number one, the IG's report speaks
22 about having the revocation process sent to CDC. However, in
23 1992 and 1994 it was in the hands of CDC. That was under the
24 regime of Chairman John Gillis.

25 Under Nielsen, it came back to the Board of
26 Prison Terms due to lawsuits being filed relative to conflict of
27 interest problems. That would be Cervantes then later on
28 Valdivia.

1 The number of deputy commissioners needed,
2 obviously, has to do with the time it takes to perform the
3 task. And as I understand it, the numbers used as far as ours
4 had to do with some of the quicker deputy commissioners, instead
5 of taking a broad spectrum of the approximate times and
6 averaging those out.

7 I think if there's going to be an attempt to move
8 revisions to CDC, there'd best be some investigations done to
9 ensure that we don't have the same problem as we had with
10 Valdivia, which, of course, is still pending. That could turn
11 the whole thing upside down.

12 CHAIRMAN BURTON: Do you know why they said there
13 was a conflict?

14 MR. ANGELE: Yes. Basically, we had the same
15 individuals putting the individuals who were violating the
16 parolee making the decisions on how long they should be put back
17 in custody.

18 The terms of the custody is governed by Title 15
19 due to specific -- or, I should say, pertaining to specific
20 crimes. It tells you how long they're going to go back into
21 custody. As a matter of Cervantes in the first place, it was a
22 lawsuit that had to do with the total revocation process, which
23 included the conflict of interest issue.

24 CHAIRMAN BURTON: There's parole revocations for
25 crimes and parole revocations for technicalities; right?
26 Technical parole violations?

27 MR. ANGELE: Yes, correct.

28 CHAIRMAN BURTON: Would you have any idea of the

1 numbers or the percentage?

2 MR. ANGELE: I don't have the numbers on what is
3 what.

4 I do know that the deputy commissioners do have
5 the ability to unfound a case and not necessarily violate
6 somebody.

7 It comes to our attention once they've been
8 violated by their parole officer, and they can either be in
9 custody or not in custody.

10 CHAIRMAN BURTON: Well, one of the concerns that
11 we have as we're going through the budget is, there's an awful
12 lot of technical parole violations, where people are going back
13 into state prison for very short time spans, which costs a whole
14 lot of money because they're going all through the process
15 again, much less the time they're there. But I mean, they were
16 revoking people, as I understand at some point, you know,
17 sending people back three and four months, which doesn't make a
18 hell of a lot of sense to me.

19 If somebody on parole commits a crime, and it's a
20 crime-crime, then go for it and let the DAs and the counties do
21 the job, prosecute them. If the jury finds them guilty, put
22 them back in for whatever the thing is.

23 Are there any steps to increase supervision of
24 the deputy commissioners?

25 MR. ANGELE: As a matter of fact, the Executive
26 Officer has taken steps. They now are required to fill out,
27 shall we say, tracking forms to show where they are, and what
28 they're doing, and the time it takes them to do it.

1 Also, there's been an increase in the number of
2 associate chief deputy commissioners who now are going to be put
3 into the field to help supervise.

4 CHAIRMAN BURTON: Deputy commissioners, how are
5 they picked?

6 MR. ANGELE: Presently they have to go by Civil
7 Service. That was a change made --

8 CHAIRMAN BURTON: Who were the ones I remember
9 when Jim Nielsen got stiffed on the Board, he got a job doing
10 what?

11 MS. SABELHAUS: He was a deputy commissioner.

12 CHAIRMAN BURTON: How'd he get that? He wasn't
13 civil servant.

14 MR. ANGELE: He was appointed.

15 CHAIRMAN BURTON: By whom?

16 MR. ANGELE: I believe that was during the
17 Hepburn regime.

18 CHAIRMAN BURTON: Well, then, they don't have to
19 be Civil Service.

20 MR. ANGELE: They do now. Commissioner Daly
21 changed it.

22 CHAIRMAN BURTON: So now they have to, but then
23 they didn't?

24 MR. ANGELE: That is correct.

25 CHAIRMAN BURTON: Do you see any improvement in
26 investigating the Battered Women Syndrome cases since you've
27 been on the Board? More attention being paid to it, so to
28 speak?

1 MR. ANGELE: There's a lot more attention being
2 paid to it. We're receiving reports from the Investigation
3 Division. The reports are extremely complete; outstanding work
4 that they're doing at Division, and it's very, very helpful.

5 CHAIRMAN BURTON: I guess people get, you know,
6 either classes in it or educated? In other words, when they go
7 in to look at the Battered Women Syndrome, before they do that,
8 they get continuing-education-of-the-bar thing, whatever it is?
9 I guess classes on it, or they're instructed in the issues so
10 they know what it is?

11 MR. ANGELE: Are you speaking of the
12 commissioners?

13 CHAIRMAN BURTON: Yes.

14 MR. ANGELE: We do have training on the issue.
15 And, of course, a lot of us also purchase books on the issue to
16 keep ourselves up on the studies that are being done.

17 CHAIRMAN BURTON: Are you of the opinion that the
18 psychological evaluation of lifers should be contracted out
19 instead of --

20 MR. ANGELE: Without a doubt, yes.

21 CHAIRMAN BURTON: Why?

22 MR. ANGELE: We have a situation where you have a
23 psychologist or psychiatrist --

24 CHAIRMAN BURTON: Basically conflict?

25 MR. ANGELE: In a way. He is the same -- he or
26 she is the same individual who's going to give an evaluation of
27 the subject, who he may be giving on and on self-help therapy
28 to.

1 We have found in my experience that you get a
2 better product by somebody who is on the outside who don't have
3 to interact with the inmate. I think they are more apt to be
4 hard-line specific instead of kind of brushing the edges.

5 And the product that I see, regardless of
6 whether or not they're going to be under the control of CDC or
7 BPT, I think it's a better product. And I've talked to enough
8 psychiatrists --

9 CHAIRMAN BURTON: When you say hard-line, in
10 other words, the person treating them would be more kindly
11 disposed to them than an outsider, or they would really know
12 better whether the person --

13 MR. ANGELE: Well, my point is, if they give an
14 inmate a bad evaluation, they're now in a situation of having to
15 be with that inmate during therapy. That could cause a little
16 bit of a problem.

17 And also, in talking to enough psychologists who
18 are outside clinicians, they also agree with the same theory.

19 CHAIRMAN BURTON: Do you have any thoughts on BPT
20 and CDC's computer technology situation that handles the parole
21 revocation process?

22 MR. ANGELE: You mean RSTS?

23 CHAIRMAN BURTON: I guess so. I don't know.

24 MR. ANGELE: There are two issues.

25 CHAIRMAN BURTON: It doesn't make sense to me,
26 but I thought that you --

27 MR. ANGELE: It doesn't make much sense to me,
28 neither, but I think I know where we're going.

1 If we're talking about RSTS, this is the
2 inputting of data into a computer during the time of the
3 hearing.

4 Unless we're talking about tracking lifers and
5 when their dates are coming up. There's two different issues
6 there.

7 CHAIRMAN BURTON: What do you think, just
8 generally, of the computer --

9 MR. ANGELE: Well, you know, back about ten years
10 ago, the BPT had their own computer system to be able to track
11 when the next lifer was coming up, and that went over to CDC.
12 And BPT then had to rely on CDC to put people on a list so
13 they'd have their hearings on time. And as a result, we wound
14 up having a lot of late people.

15 We're now in the process of developing the
16 management information system which gives us the ability, based
17 upon the input from CDC, to stay on top of who and where these
18 hearings have to go next, which assists us greatly in making
19 sure nobody falls through the holes.

20 CHAIRMAN BURTON: Senator Johnson.

21 SENATOR JOHNSON: No questions.

22 CHAIRMAN BURTON: Senator Romero.

23 SENATOR ROMERO: Actually, I want to follow up on
24 that question.

25 I think the question, as I understand Senator
26 Burton's notes, deals with the tracking system that was
27 developed. It was not implemented, I don't believe, by the
28 Board of Prison Terms.

1 And the concern was that you had many parolees
2 returning, and having to wait much longer than the 45 days in
3 order to be assessed. Some of them, in fact, were spending more
4 time being held and exceeding the term for which they had been
5 returned for in excess of this time.

6 So, I think the question is, and of course, this
7 was raised in the OIG's report, why wasn't the tracking system
8 implemented? What was the problem?

9 MR. ANGELE: As far as I know, the funding.

10 SENATOR ROMERO: Funding. Can you elaborate?

11 MR. ANGELE: I've been told that the funds
12 weren't available to put the process -- to actually put the
13 program into operation.

14 A lot of the problems have to do, obviously, with
15 manpower, and depending upon the number of people being revoked
16 or being brought in for revocation hearings, and the number of
17 DCs available to handle the cases.

18 SENATOR ROMERO: Did you want to elaborate on
19 this?

20 MR. SPEED: Yes, ma'am.

21 I'm Marvin Speed, acting Executive Officer of the
22 Board of Prison Terms.

23 You're referring to the revocation scheduling and
24 tracking system.

25 SENATOR ROMERO: Right.

26 MR. SPEED: One of the portions of that IG audit
27 that wasn't fully explored is the fact that we have collective
28 bargaining units that we have to meet and confer with in order

1 to implement this program because it involves their workload.

2 We were in the process of meeting and conferring
3 and negotiating with the union. We actually implemented the
4 process, and we do have an unfair labor practice and some
5 grievances now.

6 But the main delay was that meet and confer
7 process with the collective bargaining unit.

8 SENATOR ROMERO: And so at this point, what is
9 the status.

10 Basically, all we want is to make sure that when
11 a parolee has -- there's the obligation to make sure that the
12 parolee is met before the 45 days, that that is taking place.

13 What's going on now.

14 MR. SPEED: Right. Revocation, Scheduling, and
15 Tracking System has been implemented at 17 hearing sites. That
16 is not the -- that is factor in the delays that we're seeing
17 right now. One of the main problems with our whole process with
18 BPT and CDC is the lack of an IT infrastructure.

19 The other problem we have, the Armstrong
20 litigation, which added several layers to the process, and there
21 were some resource issues on CDC side and the BPT side. That's
22 led to a delay of cases actually getting to the hearing sites.
23 Often times, they're not even getting into the Board's
24 jurisdiction until the 45 days has already run, so they're
25 already late when they're getting to us.

26 CDC has taken steps to resolve that issue by
27 doing a file review. Again, this goes back to the lack of IT
28 infrastructure. They have paper files that are about the size

1 of a phone book for the 120,000 prisoners in the system.

2 So, in relation to that Armstrong litigation,
3 they have to go through each one of those files, pull out
4 pertinent ADA documentation to determine whether a prisoner is
5 an Armstrong class member or not, and then we go from there.
6 But the process of actually pulling those files, and taking that
7 paper out, then presenting it in a forum to the Board to review
8 to determine who's a class member is what really slowed the
9 process down.

10 So, CDC has taken steps to correct that, and we
11 have implemented the revocation, scheduling and tracking system.
12 And we are currently in the middle of this Valdivia litigation,
13 which will have an effect on the process as well.

14 SENATOR ROMERO: One last question as well. I'm
15 very much interested in looking at parole. We'll have a hearing
16 a little bit later in the year.

17 So, I'm very much interested in looking at parole
18 and parole policy, and trying to understand how we, at this
19 point at least, with CDC estimating we're going to get some
20 65,000 parolees back into the system, I'm curious as to the
21 discussion, and the OIG raises it in his report, with respect to
22 even who sets, who establishes, parole policy? And there's some
23 discussion between the Board of Prison Terms and CDC.

24 For the nominee today, can you give me a little
25 bit of your view as to the discussion on actually who should
26 establish parole policy, and how do the two work together?

27 MR. ANGELE: Are we talking specifically about
28 revocation?

1 SENATOR ROMERO: Just parole policy in general.

2 MR. ANGELE: You're talking about parole in
3 general? There're two different aspects.

4 SENATOR ROMERO: Well, parole in general, but I
5 think the controversy rises --

6 CHAIRMAN BURTON: If I could, I think the concern
7 is what I said before. You're violating a lot of people on
8 technical, CS stuff, and sending them back for short terms,
9 which doesn't make much sense, period, and makes no sense at the
10 time when we're trying to figure out how to reduce spending.

11 Again, if somebody commits a crime, then try
12 them, or judgment. But somebody pees dirty in a glass, or
13 they're seen talking to the guy that was their cell mate for
14 four years, I mean, it makes no sense.

15 And those short-term things make little sense,
16 because we're going to have the Budget Subcommittee, Senator
17 Romero's committee, just see how much does the cost to send
18 somebody back, just the administrative cost, and then the four
19 months, and then letting them back out. What it is, is stupid.

20 MR. ANGELE: I think --

21 SENATOR ROMERO: And costly.

22 CHAIRMAN BURTON: That's what makes it stupid.

23 MR. ANGELE: I think we need to identify what the
24 violation is, and also what the background of the inmate is.

25 CHAIRMAN BURTON: What difference does it make?

26 MR. ANGELE: Well, if the inmates has a long
27 history of drug use, and he gets arrested for --

28 CHAIRMAN BURTON: He gets arrested for what?

1 MR. ANGELE: Let's say possession charge or a
2 dirty test.

3 CHAIRMAN BURTON: We're talking about technical
4 violations. An arrest is not a technical violation. Arrest is
5 a new crime.

6 SENATOR ROMERO: If he doesn't show up to meet
7 with his parole officer at the scheduled time.

8 CHAIRMAN BURTON: I would like to get the number
9 of technical violations, and length of time they serve, and what
10 the cost is to do that.

11 If they're arrested for possession, then you
12 might figure, if it's chump change possession, do we really want
13 to go through the whole thing and try on that? Or, is it in the
14 best interest of justice, and whatever, just to revoke them send
15 them back?

16 But that is a lot different than the technical
17 violations. That's somebody committed a crime, and then you
18 can judge the nature of the crime and even the nature of the
19 guy, or whatever.

20 But we're talking about the technical violations
21 of the 65,000. I don't know how many of them are technically
22 violates.

23 MR. ANGELE: Not being involved in the revocation
24 process, I really don't have an answer for you, but I'll
25 certainly look into this and try to ascertain what these techno
26 violations are.

27 CHAIRMAN BURTON: Well, they ought to be able to
28 do it. I heard you tell us you've got a good computer system.

1 MR. SPEED: I think I can be a little responsive
2 to that question.

3 The last reliable data we had, approximately 20
4 percent of parolees that were returned to custody on revocations
5 were for technical violations of parole.

6 And just for clarification purposes, technical
7 violations of parole, we have three types of violations codified
8 in our regulations under Title 15.

9 SENATOR JOHNSON: Am I am being asked to vote on
10 this gentleman?

11 CHAIRMAN BURTON: Well, you could well be some
12 day.

13 SENATOR JOHNSON: Why don't we hear from him on
14 revocation?

15 CHAIRMAN BURTON: He's trying to help.

16 Some of us, when we present a bill, actually have
17 our staff with us to explain the technicalities as opposed to
18 you.

19 Point well taken, Senator.

20 This is what we want. We want to know what it
21 is; how many people; and the costs on that.

22 Maybe there's no need to do anything else.

23 Any other questions, Senator?

24 Senator Knight. Senator Karnette.

25 SENATOR KARNETTE: No questions.

26 CHAIRMAN BURTON: All right. Did you bring any
27 family, Al, or anything?

28 MR. ANGELE: I have my family away from home,

1 members of the Board of Prison Terms.

2 CHAIRMAN BURTON: The IG's report has been very
3 critical of the revocation process and how the Board handles
4 it.

5 We aren't going to resolve that here. I think
6 that since Carol Daly's become the Chair, there was a new
7 Executive Director replacing Hepburn and our former beloved
8 colleagues, Jim Nielsen and the prior Executive Officer, that
9 there has been improvement.

10 But there's a lot that has to be done, and we
11 appreciate the efforts. We appreciate the efforts being made.
12 I just want to note for the record that the commissioners have
13 to go through Civil Service, that the taping equipment at lifer
14 hearings has improved, the votes are public, and there's more.
15 I just think you're doing a much better job, and I think a fair
16 job, both for the citizens at large and for the people that have
17 been incarcerated.

18 Anybody opposed to this? I'll move the
19 nomination.

20 SECRETARY WEBB: Senator Karnette.

21 SENATOR KARNETTE: Aye.

22 SECRETARY WEBB: Karnette Aye. Senator Knight.
23 Senator Romero.

24 SENATOR ROMERO: Aye.

25 SECRETARY WEBB: Romero Aye. Senator Johnson.
26 Senator Burton.

27 CHAIRMAN BURTON: Aye.

28 SECRETARY WEBB: Burton Aye. Three to zero.

1 CHAIRMAN BURTON: Thank you.

2 MR. ANGELE: Thank you.

3 [Thereupon this portion of the
4 Senate Rules Committee hearing
5 was terminated at approximately.
6 10:30 A.M.]

7 --ooOoo--


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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

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25 Reported by:

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27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

AGNES S. LEE, Deputy Secretary
Health and Human Services Agency

SENATOR DENISE MORENO DUCHENY

MARTIN OMOTO
United Cerebral Palsy

TERRY BOISOT
Mother to Ben, a teenager with physical and developmental
disabilities

LYDIA MISSAELIDES
California Association for Adult Day Services

CASEY MCKEEVER
Private Citizen

FRANK MECCA
County Welfare Directors Association

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Agnes Lee, Deputy Secretary,
Health and Human Services.

MS. LEE: Thank you, Mr. Chairman and Members of
the Senate Rules Committee, for the opportunity to appear before
you today to seek your approval for my nomination for Deputy
Secretary of the California Health and Human Services Agency.

The Agency oversees the administration of over a
dozen departments that administer various health and human
services programs. The Agency's overarching goal is that all
Californians, especially those most at risk or in need, are
provided opportunities to enjoy a high quality of life as
measured by sound physical, mental, and financial health of
children, adolescents, and adults; strong and capable families;
safe and sustainable communities; and dignity for all
individuals.

The Deputy Secretary reports directly to the
Agency Secretary Grantland Johnson and serves as a key advisor
on program and fiscal issues related to the departments under
the auspices of the Agency.

I am fortunate to have had the opportunity to
serve as a staff person in the Legislative Analyst's Office and
the Assembly Budget Committee, where I had the privilege of
providing recommendations to Members of the Legislature on
policy and budget issues in the areas of health and human
services. During my legislative tenure, I worked extensively
with staff and constituents on various issues that required

1 intense collaboration, negotiation, and problem-solving.

2 I believe my experience with the Legislature in
3 the oversight of the state's health and human services programs
4 has given me a unique perspective on program accountability. It
5 is a perspective that I brought with me to the administration
6 and that I incorporate in my day-to-day roles as advisor to the
7 Secretary and to the executive staff of our departments.

8 One of the main challenges facing our agency as
9 well as others is addressing the impacts of the budget shortfall
10 on our programs and the population served by those programs.
11 People often ask me why I would want this position during these
12 times. My answer is simple: It is times such as these that
13 demand creative solutions, collaborative efforts, and strong
14 leadership.

15 My commitment is to meet this challenge and to
16 continuously push for ways to move forward with our goals.

17 Thank you again for your consideration. I will
18 be glad to answer any questions you may have.

19 CHAIRMAN BURTON: Senator Ducheny.

20 SENATOR DUCHENY: Thank you very much,
21 Mr. Chairman and Members. Sorry I'm a moment late. They got
22 started without me, but I came really to recommend your
23 confirmation of Agnes Lee as the Deputy Director.

24 I know Secretary Grantland Johnson is very
25 excited about her help, as we were -- and some of you will
26 recall this -- when Agnes was the budget consultant that helped
27 us all get through the welfare debates in '97 and worked with
28 the Assembly Budget Committee for several years during that

1 period and particularly during the discussions on welfare
2 reform.

3 She was a great asset to us here in the
4 Legislature, and I think she would continue to do that work,
5 since she's been in the Agency, and particularly in this
6 position.

7 I can speak also for Senator Cedillo, who was the
8 subcommittee chair that Agnes was consultant to.

9 CHAIRMAN BURTON: Thank you, Senator.

10 Do you have family, Agnes, you'd like to
11 introduce?

12 MS. LEE: Yes, thank you.

13 CHAIRMAN BURTON: I think we hear one.

14 MS. LEE: It's her nap time.

15 I have my husband here, Darren Figgins, and my
16 daughter Samantha, and my mother-in-law, Sandra Figgins.

17 CHAIRMAN BURTON: We'll try to get through this
18 early so the kid can take a nap.

19 [Laughter.]

20 CHAIRMAN BURTON: Idle curiosity, but what's the
21 difference between an Associate Secretary and a Deputy?

22 MS. LEE: We have different levels of positions
23 of secretaries in the Agency. The way the Agency is
24 structured, you have --

25 [Baby's loud crying.]

26 CHAIRMAN BURTON: We're not going to be mean to
27 mommy.

28 [Laughter.]

1 MS. LEE: We have the Agency Secretary, then the
2 Under Secretary, the Deputy Secretary, and then under that there
3 are three associate secretaries: one for external affairs; one
4 for legislation; and another for special programs and planning.

5 CHAIRMAN BURTON: So, it's the Secretary, the
6 Under Secretary, and then the others?

7 MS. LEE: In this position, yes.

8 CHAIRMAN BURTON: Senator Johnson.

9 SENATOR JOHNSON: No questions.

10 CHAIRMAN BURTON: Senator Romero.

11 SENATOR ROMERO: No questions.

12 CHAIRMAN BURTON: Senator Knight.

13 SENATOR KNIGHT: No questions.

14 CHAIRMAN BURTON: Senator Karnette.

15 SENATOR KARNETTE: Well, I just want to
16 congratulate you for coming in on your day off. That's why your
17 family's here, I'll bet, the little one who's waiting for you
18 outside.

19 CHAIRMAN BURTON: Witnesses in support?

20 MR. OMOTO: Marty Omoto with United Cerebral
21 Palsy, and also I'm a family member. My older sister has
22 developmental disabilities.

23 So, I want to commend Secretary Johnson for his
24 appointment, and also our strong support for Agnes Lee. She has
25 done a wonderful job in bringing families with people with
26 disabilities together and believing in the state's commitment.

27 I cannot tell you how she transformed a room a
28 couple months ago of people who were very cynical into a room

1 that wanted to be partners with the state. And I can thank her
2 for that one on behalf of my sister.

3 Thank you.

4 MS. BOISOT: Terry Boisot, primarily a mother of
5 Ben, who is deaf, blind, severely physically and developmentally
6 disabled, and also an advocate for people. I sit on the board
7 of the Ark of the United States.

8 I would just like to reiterate what Marty Omoto
9 just said. You did transform the room, Agnes.

10 And when there was a lot of animosity and
11 difficult feelings, Agnes changed all of that in a matter of 15
12 minutes.

13 Thank you.

14 MS. MISSAELIDES: Good afternoon, Lydia
15 Missaelides. I represent the California Association for Adult
16 Day Services.

17 I have known and worked with Agnes in all three
18 of the key positions that she has held, and I'm here to
19 enthusiastically support her confirmation today.

20 Thank you.

21 MR. McKEEVER: Mr. Chairman, Casey McKeever,
22 formerly of Western Center of Law and Poverty, now with the
23 Assembly Human Services Committee.

24 But I'm speaking as a private person, as someone
25 who worked with Agnes and found her to be extraordinarily
26 competent and carrying, and someone who could realize the
27 realities of what the state faced and try to do the best that
28 was possible within the range of possibilities with difficult

1 budget decisions, and did so on behalf of people who often times
2 were not well represented.

3 MR. MECCA: Thank you, Mr. Chairman. Frank
4 Mecca with the County Welfare Directors Association.

5 And for all the reasons you've already heard, we
6 enthusiastically support Agnes' nomination.

7 CHAIRMAN BURTON: Any opposition?

8 Move the nomination.

9 SECRETARY WEBB: Senator Karnette.

10 SENATOR KARNETTE: Aye.

11 SECRETARY WEBB: Karnette Aye. Senator Knight.

12 SENATOR KNIGHT: Aye.

13 SECRETARY WEBB: Knight Aye. Senator Romero.

14 SENATOR ROMERO: Aye.

15 SECRETARY WEBB: Romero Aye. Senator Johnson.

16 SENATOR JOHNSON: Aye.

17 SECRETARY WEBB: Johnson Aye. Senator Burton.

18 CHAIRMAN BURTON: Aye.

19 SECRETARY WEBB: Burton Aye. Five to zero.

20 CHAIRMAN BURTON: Congratulations.

21 MS. LEE: Thank you.

22 [Thereupon this portion of the
23 Senate Rules Committee hearing
24 was terminated at approximately.

25 1:45 P.M.]

26 --ooOoo--

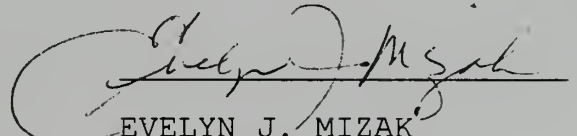
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That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of February, 2003.


EVELYN J. MIZAK
Shorthand Reporter

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CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

LORI DI CARLO, Warden
California Institution for Men, Chino

ROY MABRY, State President
Association of Black Correctional Workers

SUSHMA TAYLOR, Chief Executive Officer
Center Point, Inc.

RICHARD TATUM, State President
California Correctional Supervisors Organization

MICHAEL PEEVEY, Member
Public Utilities Commission

SENATOR JACK SCOTT

ART CARTER
Coalition of Utility Employees

1 ITZEL BERRIO
2 The Greenlining Institute

3 LINDSAY IMAI, for CARLENE MAR
4 Council of Asian American Business Association

5 MISTER PHILLIPS, for DR. J. ALFRED SMITH, SR.
6 Senior Pastor
7 Allen Temple Baptist Church

8 JOE LYONS
9 California Manufacturers & Technology Association (CMTA)

10 SHELLEY BERGUM, Executive Director
11 Deaf and Disabled Telecommunications Program

12 V. JOHN WHITE
13 Center for Energy Efficiency and Renewable Technologies, Natural
14 Resource Defense Council, Union of Concerned Scientists, and
15 Environmental Defense

16 NORMAN PLOTKIN
17 Alliance for Retail Energy Markets (AREM)

18 LENNY GOLDBERG
19 TURN

20 DOUGLAS HELLER, Senior Consumer Advocate
21 Foundation for Taxpayer and Consumer Rights

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Warden DiCarlo.

MS. DiCARLO: Senator Burton, Senate Rules Committee and those present, good afternoon. Thank you for the opportunity to come before you to present my qualifications as the Warden for the California Institution for Men.

My professional experience includes serving in the Department of Corrections for over 26 years. My experience has been drawn from assignments at two institutions covering all levels of inmate custody, from inmates housed in a minimum facility to inmates housed in the administrative segregation unit.

My managerial assignments have included Correctional Captain, Associate Warden, Chief Deputy Warden, and since November of 2000, Warden of California Institution for Men.

My formal schooling includes a Bachelor of Art Degree in behavioral sciences with a minor degree in criminal justice and corrections. I also completed some graduate work at Laverne University.

My focus includes maintaining public safety in an efficient manner, making CIM a meaningful and safe workplace for the employees, a beneficial and safe place for the inmates serving their sentences, and as a valuable neighbor to the surrounding community.

I'd be happy at this time to answer any questions you may have.

1 CHAIRMAN BURTON: Thank you.

2 In your Statement of Goals, you talk about your
3 institution has an evolving HIV mission. How many HIV inmates
4 do you have?

5 MS. DiCARLO: We have in the Del Norte unit at
6 CIM, the east facility, 180, and at the minimum support facility
7 we're now in the process of activating 100 beds.

8 CHAIRMAN BURTON: And what are your long-term
9 plans for these?

10 MS. DiCARLO: The long-terms plans are to reach
11 the activation level of the 100 beds at MSF and fully integrate
12 them into the programming.

13 CHAIRMAN BURTON: They get all treated, I guess,
14 with the appropriate medication and everything?

15 MS. DiCARLO: Absolutely. We have a licensed
16 hospital, and so they have on-site medical and the
17 pharmaceuticals follow-up.

18 CHAIRMAN BURTON: The pharmaceuticals, are they
19 essentially purchased? In other words, does CDC buy them? You
20 tell them what you need, and then they buy in bulk? Idle
21 curiosity.

22 MS. DiCARLO: Our HIV drugs, I believe, last
23 year were close to \$3 million, and that's based on what the
24 inmate is prescribed, and that's how they're purchased and
25 ordered.

26 CHAIRMAN BURTON: So I mean, you need X drugs.
27 You tell CDC, and then they do --

28 MS. DiCARLO: Our pharmacy actually coordinates

1 the purchase of those.

2 CHAIRMAN BURTON: With CDC or on their own?

3 MS. DiCARLO: I'd have to check with the
4 actual --

5 CHAIRMAN BURTON: That's cool.

6 You also mentioned restructuring pre-release
7 classes, which I think many of us think that one of the
8 unfortunate things about the corrections system is, it probably
9 doesn't correct. I mean, it's been very meaningful since we
10 took rehabilitation out.

11 But the pre-release programs, people, a lot of
12 them aren't the brightest bulbs. They're dumped out in the
13 street with no training, no prep, et cetera.

14 What do you envision or what are you doing?

15 MS. DiCARLO: We're actually evaluating our
16 process now to maybe combining our basic education programs to
17 enhance, like stand-alone programs and issues, parenting, anger
18 management, specific to what the inmates are requesting and
19 need.

20 Our re-entry program, we currently have a
21 six-week program with 27 students. And we recently gained a
22 teacher from the closure of NCWF, and so it's our plan to
23 activate another re-entry class with that instructor.

24 CHAIRMAN BURTON: So, somebody's getting out June
25 first. Six weeks prior to that, you do what with them?

26 MS. DiCARLO: They can be placed into that
27 re-entry program, and for the last six weeks --

28 CHAIRMAN BURTON: What would the re-entry program

1 be?

2 MS. DiCARLO: It has life skills. We do some
3 proctoring of a DMV test. Have an overall community skills.
4 Parole agents come out and speak with them regarding their
5 responsibility in the community. Other community leaders. Very
6 basic things to how to balance a checkbook.

7 CHAIRMAN BURTON: Your institution has probably
8 the highest OT rate in the system, or one of the highest. Why
9 is that? Are you understaffed or what?

10 MS. DiCARLO: We have three primary drivers that
11 I could share with you. One is the coverage behind sick leave,
12 which includes sick leave self, people out on long-term sick,
13 family leave, and other issues like military leave.

14 Also, we have a very large Reception Center
15 mission for a thousand. The Reception center, overcrowding is a
16 very large driver. Add sick overflow and medical guarding.

17 As I shared with you, we have a licensed
18 hospital, and we also have a contract with the Riverside
19 Regional Medical Center. Requires a lot of medical transport.
20 We have 22 folks that receive dialysis, so transportation to and
21 from those appointments, and to other outpatient.

22 CHAIRMAN BURTON: Is it a correctional guard that
23 drives the ambulance, and a correctional guard that's in the
24 back with the patients while they're in the ambulance?

25 MS. DiCARLO: It could be taking them where they
26 don't need a medical personnel attending. For instance, if
27 they're going to a consult clinic at RCMC, then they're just
28 transporting the inmate to that.

1 CHAIRMAN BURTON: How many guards would be in
2 that one?

3 MS. DiCARLO: Typically there would be two, maybe
4 three.

5 CHAIRMAN BURTON: Are they all Charles Manson or
6 what?

7 MS. DiCARLO: No, but many of our inmates are in
8 our Reception Center, so they're not classified.

9 CHAIRMAN BURTON: You have an idea; don't you?

10 MS. DiCARLO: We have an idea, yes.

11 CHAIRMAN BURTON: If they're in on petty theft
12 with a prior, or they're in as mass murderers --

13 MS. DiCARLO: Oh, no. We have their case
14 factors.

15 CHAIRMAN BURTON: Why would it take three guards
16 to take one person?

17 MS. DiCARLO: It's usually a group of inmates.
18 Like for instance, our dialysis, it's by groups, yes.

19 CHAIRMAN BURTON: But the driver could just be --

20 MS. DiCARLO: An officer.

21 CHAIRMAN BURTON: The driver could just be a
22 driver, couldn't they, as opposed to somebody getting all that
23 stuff?

24 MS. DiCARLO: Well, there's specific reg --

25 CHAIRMAN BURTON: I feel good today; okay, you
26 did your physical fitness test.

27 I mean, do you ever give any thought to that? Or
28 would that be a job action somewhere or something?

1 MS. DiCARLO: That would be a departmental issue
2 in terms of --

3 CHAIRMAN BURTON: It starts at the top.

4 But if you had one patient going to a place that
5 had to go out, that'd probably be a driver and one?

6 MS. DiCARLO: And one, correct.

7 CHAIRMAN BURTON: Senator Johnson.

8 SENATOR JOHNSON: Mr. Chairman, I have no
9 questions, but I just feel constrained, as I have with other
10 wardens here, to say that, speaking as one Republican Member of
11 the Senate, I think it's absolutely disgraceful that our prison
12 system fiddles around in the last five or six weeks with some of
13 the prisoners, when the great bulk of them, it's known from the
14 day they walk in the door that they're going to be going back
15 out at some point. And that process ought to be continuing
16 throughout the entirety of their incarceration.

17 You have a couple of little half assed lectures
18 the last few weeks for some of them and not al of them, I think,
19 is a disgrace.

20 I intended to ask you your views of that, but the
21 Chairman's already asked and didn't get much of an answer, so I
22 doubt that I would either.

23 No further questions.

24 CHAIRMAN BURTON: Would you like to comment?

25 MS. DiCARLO: Well, I'd like to express at least
26 my interest in trying to make the educational process more
27 meaningful, and operating within the resources that we have.

28 I believe our academic personnel are very

1 committed to that in what they deliver everyday.

2 CHAIRMAN BURTON: In other words, you're
3 understaffed with the type of stuff that we're talking about?

4 MS. DiCARLO: I just think we have established
5 curriculums that maybe do need to be re-evaluated.

6 For instance, within the institution, enhance
7 some of their experiences. You know, I believe that is
8 necessary.

9 CHAIRMAN BURTON: In fact, I think this came out
10 on some other wardens, but have they ever thought of having, and
11 this would be something with the Governor, but having some of
12 the more -- I was going to say intelligent, but if they're
13 intelligent they might not be in jail -- but some of the more
14 educated prisoners tutoring, you know, in the basics?

15 MS. DiCARLO: We have tutors in the literacy
16 programs within the institution.

17 CHAIRMAN BURTON: Inmates.

18 MS. DiCARLO: Yes, and student assistants in the
19 classroom.

20 SENATOR KARNETTE: Do they get paid?

21 MS. DiCARLO: Yes, some are pay numbers, yes.

22 CHAIRMAN BURTON: You know, you see on television
23 where young kids are brought into prisons and get the hell
24 scared out of them by cons that have been in there for a long
25 time.

26 I wonder if they have that same type of program
27 for, shall we say, either first arrested or first convicted to
28 kind of let them know that if they get a chance to get out, they

ought to take it and stay straight, because coming back in a second time is not really a lot better.

I know that, one, although you wouldn't know it from the budget, that you're short on money because of a variety of factors, even though it's a lot of money spent.

I just think that it's incumbent on the wardens to be as imaginative as you can, and do as much as you can, not necessarily on the cheap, but whatever. Then maybe some of that could cut into the OT.

Senator Romero.

SENATOR ROMERO: Thank you.

There's been a lot of discussion about recidivism in Corrections up and down the state.

What percentage of your inmates do you know off-hand are there because of violations, technical violation of parole?

MS. DiCARLO: I couldn't give you the exact percentage, Senator. I'd have to, you know, get the --

SENATOR ROMERO: Ballpark.

MS. DiCARLO: A ballpark would be, technical -- you mean what kind of technical violations?

SENATOR ROMERO: Not showing up to meet --

CHAIRMAN BURTON: Peeing dirty in a bottle, not showing up to see their parole officer.

MS. DiCARLO: Dirty tests, those type, or associating, or whatever, probably 60 to 70 percent, I would think.

SENATOR ROMERO: That's why there's a lot of

1 discussion about parole in Corrections right now.

2 What observations do you have with respect to
3 what can be done to deter and to perhaps think about those whom
4 we actually do incarcerate, that we will not have these, the 60
5 or 70 percent that are there for some technical, we can address
6 those, but do we have to incarcerate them?

7 What are you doing?

8 MS. DiCARLO: You have to look at the behavior
9 that gets them back. And some of these folks are multi-termers.
10 You have to look at the actual behavior that keeps bringing them
11 back and address that. So, if it's in terms of drug use, or if
12 that's the nature of their repetition and their cycle, is how do
13 you really address the drug use, and what keeps bringing them
14 back into the system.

15 And maybe in terms of the follow-up and after
16 care, and that transition time period. So that, for instance,
17 they're just not on a continual cog in a wheel, but the after
18 care. So they don't get into a routine, go out, spend a few
19 months on the street, come back to prison.

20 SENATOR ROMERO: Thank you.

21 CHAIRMAN BURTON: Senator Knight.

22 SENATOR KNIGHT: Yes, thank you, Mr. Chairman.

23 With that recidivism rate, one might question is
24 there a faction that would come back because they like it there?
25 They get three squares a day, and medical, and you know. Is
26 there a faction --

27 MS. DiCARLO: I would have to say
28 institutionalization would have to account for a portion of

1 these folks that do. And I don't think you could discount that.

2 SENATOR KNIGHT: You don't have a percentage?

3 MS. DiCARLO: No.

4 CHAIRMAN BURTON: Senator Karnette.

5 SENATOR KARNETTE: I'd like to refer back to what
6 Senator Johnson was saying about this information that's given
7 to the inmates before they leave.

8 And I was thinking, they probably come in and
9 just give a lecture. And people listen, but does anybody know
10 whether they really absorbed it?

11 In other words, it might be more sensible to do a
12 week, and then have them study a little bit, then make them
13 listen two or three more weeks if they didn't seem to know how
14 to balance a checkbook, or whatever it is.

15 Just coming in, I'm wondering, do you do anything
16 of that sort?

17 MS. DiCARLO: Practical application. Like, for
18 instance, we had administered the DMV test as it would be
19 administered at the DMV, since they don't come in any more. So,
20 in those ways we can give tests.

21 But in terms of actually instilling those life
22 skills, I don't know if there's a measurement, Senator.

23 SENATOR KARNETTE: But if you just come in and
24 talk to somebody for a few hours, or it's three weeks you have,
25 unless there's some kind of follow-up or some reason for them to
26 learn it or to absorb it, is there any way you could figure out
27 a way that you could make it more likely that they absorbed it?

28 I think if you thought about that, have the

1 people who come in think about that a little bit, because
2 anybody can sit and listen to something and absorb nothing. We
3 do quite a bit of that sometimes.

4 But I just think something like that. I know
5 what happens in these kinds of cases any place, I mean, any kind
6 of organization where people have to listen to somebody talk and
7 give them information.

8 MS. DiCARLO: Unless it's meaningful to them, and
9 how do we measure that? And how they received it.

10 SENATOR KARNETTE: Right. You can measure it
11 probably, but making sure it happens and getting them to absorb
12 it is something else.

13 Well, I just think it's worth looking into
14 without costing any more money maybe.

15 MS. DiCARLO: Thank you.

16 CHAIRMAN BURTON: I don't know how you teach
17 somebody life skills in six weeks, as Senator Johnson said. I
18 think you have to start that earlier.

19 Now the 70 percent of the people you have there
20 that come back for technical violations, my theory is, they
21 commit a crime, like a crime-crime; retry them, put them in
22 jail.

23 Do you know what the length of stay is? We have
24 heard statistics that a high percentage are back there for less
25 than six months. Is that --

26 MS. DiCARLO: Seven months up to a maximum of one
27 year.

28 CHAIRMAN BURTON: The reprocessing, getting them

1 back in, that's a fair piece of the cost, right, the
2 administrative cost of re-getting them in?

3 MS. DiCARLO: Yes, it is.

4 CHAIRMAN BURTON: So really, it makes an
5 inordinate amount of sense for people to be brought in for a
6 three-month period for not doing too much. But I think that's a
7 problem basically system-wide, not necessarily your thing.

8 Witnesses in support, Brother Mabry. He's a
9 regular.

10 It's always good to see you, sir.

11 MR. MABRY: Thank you. Yourself also, and your
12 Committee Members.

13 My name is Roy Mabry. I'm the State President
14 for the Association of Black Correctional workers.

15 And I'm here in full support of Warden DiCarlo's
16 confirmation today.

17 I must tell you that it's sort of exciting when
18 ever we get somebody from the Inland Empire here for
19 confirmation, especially when they've worked every level of the
20 system up to the point of this confirmation. And I think that
21 is something that even this entire committee should consider as
22 a required to do in order to get to this position in terms of
23 the service you've provided to get to this point.

24 If there's no offense to the Committee or to
25 Lori, I'd like to give her a hug and bestow congratulations.

26 SENATOR JOHNSON: Just a quick question.

27 Did you say someone from the Inland Empire?

28 MR. MABRY: That's correct.

1 SENATOR JOHNSON: I was under the impression you
2 were a constituent of mine.

3 MS. DiCARLO: I am. He means a prison in the
4 Inland Empire.

5 [Laughter.]

6 MR. MABRY: She's a Republican also.

7 CHAIRMAN BURTON: Ma'am.

8 DR. TAYLOR: Thank you, Senator Burton and
9 Members of the Committee. I'm Dr. Sushma Taylor. I'm the CEO
10 of Center Point, Inc. Center Point, Inc. is located in Marin
11 County, Senator, your home district. However, we have programs
12 throughout the state.

13 Some of the programs that we operate are
14 in-custody, therapeutic community programs under the auspices of
15 the Department of Corrections, Office of Substance Abuse
16 Programs.

17 We operate a program in Warden DiCarlo's
18 institution. Our program is offering 200 inmates treatment,
19 life skills training, training in literacy, and preparing them
20 for work release.

21 CHAIRMAN BURTON: At that institution?

22 DR. TAYLOR: Yes, sir. And Warden DiCarlo has
23 been very, very supportive of our program, of our efforts. She
24 has made sure that the classification into our program has been
25 streamlined so that the capacity of 200 is never much below the
26 threshold.

27 We provide transition to community programs so
28 that there is a reduction in the return to custody rates. And

1 the type of programs that we operate, I think, should be in more
2 institutions.

3 And if we had wardens who would be more
4 welcoming, and who would make sure that the custody staff that
5 were assigned to our unit would be equally supportive, because
6 the custody staff and the treatment staff go through several
7 weeks of cross-training, so that the custody staff assigned to
8 our unit, our ward and yard, speak some of the treatment
9 language which is so important.

10 And a lot of the people that we are seeing are
11 there because of return to custody due to drug problems, and due
12 to an inability to get jobs, and maintain jobs, or to be able to
13 integrate with their families.

14 So, we hope that you will look into more of those
15 type of programs and support wardens who actually believe in
16 that kind of rehabilitation.

17 So, we would like to support Warden DiCarlo's
18 nomination.

19 CHAIRMAN BURTON: How many prisons are you in?

20 DR. TAYLOR: Five California prisons, from Sierra
21 Conservation Center and Base Camp --

22 CHAIRMAN BURTON: Five out of how many prisons?

23 DR. TAYLOR: Well, there're actually 32 other --
24 there are 32 contracts in the California prisons: 8,301 beds
25 are on line right now. And you have legislated a 9,000-bed
26 implementation prior to the triggering of the Delano Prison
27 activation.

28 So, we're hoping to be able to get to additional

1 beds, but 8,301 beds are on line.

2 CHAIRMAN BURTON: Questions of the witness?

3 Next witness in support.

4 DR. TAYLOR: Thank you.

5 MR. TATUM: My name is Richard Tatum, spelled
6 T-a-t-u-m. I'm the State President of the California
7 Correctional Supervisors Organization, which represents, now
8 represents, the majority of the supervisors in the Department of
9 Corrections.

10 Review also of our chapter people at
11 Ms. DiCarlo's institution, we would like to request that this
12 Committee support her. They support her. Our organization
13 supports her.

14 With her vast experience she's had, coming up
15 through the ranks, with her ability as an open-door policy in
16 dealing with our people that we have, we'd request at this point
17 that you make her a warden permanently.

18 CHAIRMAN BURTON: Other witnesses in support?

19 Any witnesses in opposition?

20 Pleasure of the Committee.

21 SENATOR JOHNSON: Move it.

22 CHAIRMAN BURTON: Moved by Senator Johnson. Call
23 the roll.

24 SECRETARY WEBB: Senator Karnette.

25 SENATOR KARNETTE: Aye.

26 SECRETARY WEBB: Karnette Aye. Senator Knight.

27 SENATOR KNIGHT: Aye.

28 SECRETARY WEBB: Knight Aye. Senator Romero.

1 SENATOR ROMERO: Aye.

2 SECRETARY WEBB: Romero Aye. Senator Johnson.

3 SENATOR JOHNSON: Aye.

4 SECRETARY WEBB: Johnson Aye. Senator Burton.

5 CHAIRMAN BURTON: Aye.

6 SECRETARY WEBB: Burton Aye. Five to zero.

7 CHAIRMAN BURTON: Congratulations, Warden.

8 MS. DiCARLO: Thank you.

9 CHAIRMAN BURTON: Mr. Mabry never does hug the
10 male wardens.

11 [Laughter.]

12 CHAIRMAN BURTON: Senator Scott.

13 SENATOR SCOTT: It's my privilege to introduce
14 the next gubernatorial nominee. He is my constituent, and he is
15 also a friend of mine, Michael Peevey.

16 Mr. Peevey has the unusual background of being
17 someone who's quite familiar with labor, having served as the
18 Public Relations Director for the statewide AFL-CIO, and with
19 industry having served as President of Southern California
20 Edison.

21 I remember when coming to the Senate and the
22 great electrical crisis that we had in the State of California,
23 that I went down to Mr. Peevey's office. And Mike took over an
24 hour with me, going through the intricacies of the electrical
25 crisis, explained it in better detail and with deeper
26 understanding than anyone else I'd talked to. And being someone
27 who came out of the background of education, I needed a lot of
28 education in the area of electricity.

1 So, I'm very pleased to introduce to you Michael
2 Peevey, and certainly indicate my strong support for your
3 approval of his nomination to the Public Utilities Commission.

4 CHAIRMAN BURTON: Thank you, Senator.

5 Mike.

6 MR. PEEVEY: I was hoping I'd have my Assembly
7 Member here.

8 CHAIRMAN BURTON: She read the Chronicle story,
9 and she's boycotting.

10 [Laughter.]

11 MR. PEEVEY: Which Chronicle story was that?
12 There's been quite a few.

13 Chairman Burton and Members of the Committee, I'm
14 pleased to be here this afternoon and to answer your questions.

15 It was a little less than a year ago I was
16 appointed to the Public Utilities Commission by the Governor,
17 and a little more than two months ago that he named me as its
18 President.

19 And it's been a rather exciting first year, and
20 I'll let it go at that. Happy to answer your questions.

21 CHAIRMAN BURTON: There was a story in the local
22 paper, my local paper, which you may or may not be familiar
23 with. It basically dealt with the amended filing on the airport
24 thing.

25 MR. PEEVEY: Yes, the Form 700.

26 CHAIRMAN BURTON: Right. In your amended filing,
27 you made a statement about -- I don't know if the other Members
28 have read it, so if you just briefly want to say what it is was,

1 why it was, and we'll move on to stuff of more significance.

2 MR. PEEVEY: Let me just address that. It wasn't
3 an amended filing. It was just a filing. I made a filing on
4 Monday. It was a regular Form 700 filing; there was no
5 amendment to anything.

6 I reported that last year I received as a gift
7 under the law, as I understand the law to be, \$2,134 in free
8 parking at San Francisco International Airport. That was what I
9 reported in the form.

10 I didn't see it in the Chronicle today. I was in
11 Southern California; came up this morning.

12 In all candor, I did not know the gift
13 limitation, which I've subsequently found out is \$320.

14 But to give you some real context about all this,
15 I went on the Public Utilities Commission in March of last year.
16 Several weeks prior to that -- and I hate to go into this,
17 because I'm a private person and this is a personal matter, but
18 since someone else has chosen to make it public, I guess I have
19 to.

20 Several weeks prior to that, I had an operation
21 for lung cancer. I had 60 percent of my left lung removed. I
22 was under doctor's care when I went on the Public Utilities
23 Commission. And actually, the doctor advised me not to fly at
24 all. I flew up here every week to San Francisco for several
25 weeks for the rest of the year.

26 I asked the Executive Director of the
27 Commission -- shortly after I went on the Commission I commenced
28 right at the same time, I commenced chemotherapy treatment,

1 which is not a pleasant experience for anybody, and it wasn't
2 for me. In addition to the physical manifestations that are
3 obvious in such situations, there is the -- it's wearing and
4 tearing.

5 And I asked our Executive Director at the
6 Commission if there was a way to make this easier, if I could
7 just get a parking pass at San Francisco Airport. I could just
8 drive down there, because the Commission gives you a car, at the
9 conclusion of business and park the car there. And that's what
10 I did. And I did that 14 times.

11 And of that, as it turned out when I went back
12 and audited it myself, eight of those times it was on state
13 business which the state did not pay for. I could have
14 submitted receipts for that to the state and charged \$1500.
15 Some of the other times were for chemotherapy treatments.

16 And that's the bottom line.

17 CHAIRMAN BURTON: So, that was the reason there
18 was an issue dealing with something at the airport and you had
19 abstained?

20 MR. PEEVEY: That's correct.

21 CHAIRMAN BURTON: Getting into problems, do you
22 have any concept why natural gas prices are just going up so
23 dramatically, and in what way will the price spikes affect
24 California?

25 MR. PEEVEY: Well, natural gas prices are going
26 up, apparently, for a variety of reasons. Obviously, colder
27 weather in the east coast, inadequate overall supply in terms of
28 delivering it to California are factors in all this.

1 It will have consequences unless it's
2 ameliorated, because natural gas is fuel of preference for much
3 of California's electrical generation, as well as used
4 significantly by homeowners and others for heating purposes.

5 Unfortunately, the California Public Utilities
6 Commission does not set natural gas prices at the wholesale
7 level. They're set, or the market, the Federal Energy
8 Regulatory Commission opened this up many years ago, and it
9 comes and goes, it ebbs and flows in terms of price. Whenever
10 there's a spike or consequently cold weather in the east, the
11 prices tend to go up.

12 What we have to do in California, there's many
13 things we have to do. I'm certainly open to examining this very
14 carefully.

15 But what we need is greater supply, more pipeline
16 capacity, and we need greater storage facilities in California
17 so that we can buy in the summer, when gas prices are lower, and
18 use it in the winter, just like the squirrel stores away its
19 nuts. That's the basic principle that has operated in this
20 state.

21 But as we grow, and demand grows for gas, we
22 haven't kept up as we should. So, we tend to become subject to
23 these variations in price that have negative consequences as
24 they roll through the economy.

25 We're seeing the same thing in gasoline prices.
26 And we're going to have to increase supply very significantly.
27 That's all there is to it.

28 CHAIRMAN BURTON: How does the Energy Action Plan

1 propose to address natural gas prices, or does it?

2 MR. PEEVEY: It does. Remember, this is a draft
3 plan. This has not been adopted by the various agencies. This
4 is a cooperative.

5 We say in there that the high and volatile price
6 of natural gas contributed significantly to the energy crisis in
7 2000-2001, and we call for the Governor's Natural Gas Working
8 Group to monitor natural gas supply, demand, and price, and to
9 facilitate the construction of California in infrastructure
10 projects.

11 We also call for four specific actions in this
12 Action Plan. Identify new gas transmission, distribution, and
13 storage facilities needed to meet our future needs is number
14 one.

15 Two, monitor the market to identify and correct
16 the exercise of market power and manipulation where it exists,
17 and I think that is a proper function for the Commission.

18 Three, evaluate the net benefits of increasing
19 the state's natural gas supply options, such as LNG, liquified
20 natural gas.

21 And four, support electric utilities and gas
22 distribution companies entering into longer term contracts as a
23 hedge against volatility and high prices.

24 Those are specific things that this draft plan
25 suggests.

26 CHAIRMAN BURTON: I start when Congress, over my
27 vote, deregulated natural gas. That was going to solve all the
28 problems, which I guess it did for the industry.

1 What do you consider the importance of the
2 state's submittal to FERC this week of the allegations on market
3 abuse by a variety of participants, from some of the munis to
4 some of the generators?

5 MR. PEEVEY: Well, I mean, it's incredibly
6 significant. The product that was submitted to FERC on Monday
7 is a reflection of the hard work at the Attorney General's
8 office, the Governor's office, and the Public Utilities
9 Commission staff and all.

10 I think the --

11 CHAIRMAN BURTON: How about the Select Committee
12 on Market --

13 MR. PEEVEY: The Select Committee, I was getting
14 there.

15 CHAIRMAN BURTON: It made Bill Morrow happy when
16 they threw the munis in, I'll you that.

17 MR. PEEVEY: But, you know, the whole -- it runs
18 over a thousand pages, and it has 348 exhibits, or something of
19 that number. And it's still sealed, although there seems to be
20 a crescendo of support now for taking the seal off. I saw on
21 the news just this morning that apparently some FERC staff is
22 supportive of this now, too.

23 So, I think very soon we'll be able to get all
24 the details of the pleading. I have not seen it all.

25 But it's deeply troubling that so many people
26 participated in this. I mean, it was rampant. It was not
27 just -- it was not just Enron. Some of these names we heard,
28 Fat Boy, and Death Star, and Ricochet, and all that, came out of

1 the Enron vernacular, but it's much, much more -- much broader
2 than that.

3 People deliberately withheld generation, as well
4 as played around with trading.

5 Regrettably, I'm afraid, I mean, it looks like,
6 although I don't want to be conclusive here because the pleading
7 is still sealed, that there was a significant amount of
8 participation by some, at least, municipal utilities in some of
9 these trading schemes. It's, you know, it was putting whatever,
10 their community was first and the state second in those
11 instances. And I think it's deeply regrettable.

12 And you know, we'll get to the bottom of this.

13 Senator, I think that this is, now that we've
14 made this filing with the FERC, this frankly is the acid test
15 for FERC. We've seen an appearance sake, a gentler, kinder
16 FERC. We're going to find out if it's just appearance or
17 reality.

18 So, it's truly the acid test as to whether
19 California is going to get significant relief, and we're seeking
20 \$9 billion here. So, this is not small potatoes.

21 CHAIRMAN BURTON: Do you think there's an
22 inherent conflict between a holding company's desire for profit
23 and the utility's obligation to their customers for reasonably
24 priced electricity?

25 I mean, it's like, at least according to press
26 reports, et cetera, that Sempra Energy, the holding company for
27 San Diego Gas, was involved in this.

28 Is it just kind of an inherent conflict that the

1 holding company's got one responsibility, that is grab as much
2 as they can, but the utility under them has got a responsibility
3 to provide, you know, reasonable and sufficient electricity to
4 the extent they can?

5 MR. PEEVEY: Or gas. Yes, there can be.

6 My view on this is that, if you're going to have
7 a holding company utility structure, you have to build a wall so
8 high that you can't have the back and forth. But in reality,
9 that doesn't seem to work well. I mean, I could cite my own
10 experience. If you're high enough in the organization, you can
11 see over the wall, to put it bluntly.

12 So, I mean, I think this is a reasonable concern
13 as to what structure properly we should have going forward.
14 There is definitely some potential, significant potential, for
15 abuse.

16 And as Senator Johnson and I talked about it in a
17 different venue, I mean, we had these situations where a lot of
18 money was dividended up with consequential impacts afterwards
19 that are now difficult to determine whether anybody's interest
20 was served.

21 CHAIRMAN BURTON: So, can the Commission do
22 something regulatory, or is it left for Legislature to do
23 something statutorily?

24 MR. PEEVEY: No, the Commission -- the Commission
25 in the '80s and in the early '90s responded to each of the major
26 utilities seeking to create a holding company by allowing each
27 to create holding companies with various conditions placed on
28 them; with various conditions placed on them. I think Edison

1 was the first to have an approval. I think PG&E was last. I
2 may be wrong in the sequencing exactly there. And the
3 Commission can alter that.

4 CHAIRMAN BURTON: On this issue, Senator Johnson.

5 SENATOR JOHNSON: Yes, just on that point.

6 It's my understanding that at the time that the
7 Commission allowed for that, they put in place a requirement
8 that the utilities would have first call on the capital of the
9 holding companies, the parents that, in effect, that were being
10 created.

11 Would you agree with that characterization? What
12 is the position of the Commission on that, whether that language
13 meant that the parents were responsible for these utilities?

14 MR. PEEVEY: The language is somewhat ambiguous,
15 and there's no commissioner around today that was around there
16 in the '80s when this was voted out. I mean, that's the hard
17 reality.

18 CHAIRMAN BURTON: They're not all dead.

19 MR. PEEVEY: No, I don't think they're all dead,
20 at least they haven't recognized it in every case.

21 [Laughter.]

22 CHAIRMAN BURTON: There was no record or
23 anything?

24 MR. PEEVEY: There is, but the record is
25 ambiguous in what happened.

26 CHAIRMAN BURTON: There wasn't a clear reading of
27 the language of that?

28 MR. PEEVEY: I think it's fair to say it's not

1 crystal clear. And you'll find Commissioners who are around
2 today that voted for it at the time who have different
3 recollections of what they did. I mean, Don Vial would say,
4 "Absolutely, what Senator Johnson has said is true; that the
5 first call means -- "

6 CHAIRMAN BURTON: First call.

7 MR. PEEVEY: That's right, first call.

8 But others who voted for it at that time would
9 say -- tell you something differently.

10 And we've had a proceeding at the PUC on this
11 matter, and frankly, having been one who had something
12 indirectly to do with this when I was at Edison, I recused
13 myself from that discussion.

14 SENATOR JOHNSON: All right. I understand.

15 MR. PEEVEY: I think it passed three-to-one to go
16 further.

17 CHAIRMAN BURTON: I was talking about now.

18 SENATOR JOHNSON: To me, the language was pretty
19 clear. It was capital. And I understand that people have come
20 along after the fact and said, well, that meant capital projects
21 as opposed to an infusion of capital into a troubled utility.

22 But I guess I'm trying to get at, what is the
23 position of the Commission as a whole today as to whether
24 there's legal liability on the part of those holding companies?

25 MR. PEEVEY: I think the majority of the
26 Commission feels that there is some responsibility. I don't
27 know if it passes the legal liability question with exactitude,
28 but it certainly is clearly a responsibility, yes.

1 CHAIRMAN BURTON: So, if the Commission doesn't
2 know what it's doing, feel like it's doing, can't do it, we
3 could statutorily do it?

4 MR. PEEVEY: Of course. You could always
5 statutorily do it, too.

6 SENATOR JOHNSON: Senator Burton, I recall, at
7 the time said when his daughter gets into financial difficulty,
8 that he comes to her aid. Why? Because he's her parent.

9 I think here you had clear obligation that these
10 folks, these holding companies, really had a responsibility.

11 I guess I'm still a little confused. What is
12 likely to occur at the Commission on this issue?

13 MR. PEEVEY: Well, just on the way of analogy, I
14 think Senator Burton may come to his daughter's aid in certain
15 circumstances because he is of good heart. I don't think that
16 he has legal responsibility to do so.

17 CHAIRMAN BURTON: It's just a simple answer,
18 Michael. It's a yes, or it's no, or I don't know.

19 MR. PEEVEY: No, I'm agreeing with him.

20 CHAIRMAN BURTON: I understand you don't know. I
21 know that part, but you don't know if, and it might be. Maybe
22 we may just need to do a clarifying bill.

23 Let me ask you this. I've got a couple more on
24 this.

25 What was the thinking on your vote as to looking
26 into whether Sempra and the affiliates complied with the
27 decisions on the affiliate transactions? I think it was a
28 three-to-two vote.

1 MR. PEEVEY: You mean last week.

2 CHAIRMAN BURTON: Yeah.

3 MR. PEEVEY: Well, the feeling of myself and the
4 other Commissioner was that we -- I asked from the podium that
5 staff take a look at this, come back in 60 days with a
6 recommendation.

7 I mean, this was something that was proposed by a
8 Commissioner without -- there was no, at that time, any hard
9 evidence, or filings, or complaints before us on this matter.
10 And, so before we devote time and resources, we have a lot to do
11 at the PUC. And before we devote time and resources on to
12 hearings on whether there's affiliate abuse or not by the
13 parent, there ought to be, I thought, some evidence.

14 So, my suggestion was the staff, the Energy
15 Division, come back in 60 days, look into this, and give us a
16 recommendation. And I was ready to act.

17 CHAIRMAN BURTON: Was that a substitute motion?
18 Probably not.

19 MR. PEEVEY: No, but it's all on audio system.

20 CHAIRMAN BURTON: I mean, if you voted no because
21 the time wasn't right for a decision, right, because we ought to
22 have 60 days to look into whether we ought to look into it,
23 really look into it, that would normally be a motion.

24 Utilities still have the obligation to serve at
25 just and reasonable prices in the state; right?

26 MR. PEEVEY: Correct.

27 CHAIRMAN BURTON: And that's the obligation the
28 PUC, to see that's met?

1 MR. PEEVEY: Yes.

2 CHAIRMAN BURTON: You've shown support or stated
3 support for the utilities investing in generation, and Path 15,
4 and that.

5 Does the Commission as whole or the President
6 have the authority to order them to do something, to tell them
7 to do something, hope they do it, or what?

8 MR. PEEVEY: We have the authority to order them
9 to do it if they choose not to. I would prefer to employ
10 persuasion rather than the stick, but yes, we do.

11 CHAIRMAN BURTON: Well, you do. And Path 15's
12 been waiting for a long, long time; right?

13 MR. PEEVEY: Path 15 is going forward under
14 federal auspices because we didn't move with dispatch.

15 CHAIRMAN BURTON: And then they'll control it or
16 what?

17 MR. PEEVEY: Yes. That's regrettable, but if we
18 punt, someone else will do it in this case.

19 CHAIRMAN BURTON: When did they take it over?

20 MR. PEEVEY: Well, what happened was that --

21 CHAIRMAN BURTON: When did they make their move,
22 roughly?

23 MR. PEEVEY: Nine months to a year ago. Well, it
24 was before that. Two years ago, the Secretary of Energy,
25 Spencer Abraham, said Path 15 is going to get built, and it'll
26 be built under federal auspices. And the state said, it ought
27 to be built under state auspices.

28 CHAIRMAN BURTON: The government didn't do

1 anything?

2 MR. PEEVEY: I wouldn't say it didn't do
3 anything. It just didn't move with the kind of speed that the
4 feds did, which is ironic, to be frank.

5 But what happened was that the DOE designated
6 WAPA, which is the Western Area Power Administration, to go
7 ahead on this thing.

8 CHAIRMAN BURTON: For the rest of the Members of
9 the Committee, I've got a couple more, but I'll try to be quick.

10 When you talked to Senator Bowen's committee,
11 you acknowledged some structural flaws in the loan structure
12 that the PUC adopted to maintain direct access.

13 How do you see those flaws remedied, assuming I'm
14 correctly reporting your testimony?

15 MR. PEEVEY: You are correctly reporting my
16 testimony.

17 And I committed in that testimony, and I
18 committed before that, at the Commission actually, that by
19 July 1 of this -- no later than July 1 of this year, we adopt an
20 interim decision on direct access. We'll take another look at
21 this.

22 I think that the cap, which is at 1.7 cents, is
23 perhaps too low. It's the subject of more hearings.

24 I think the interest rate by which customers loan
25 money to direct access customers also should be higher.

26 Those things will be resolved within the next
27 four months.

28 CHAIRMAN BURTON: You were going to take another

1 look at DWR bond charges as they related to 130 base. That's
2 ES?

3 MR. PEEVEY: Yes, that's up for rehearing.

4 CHAIRMAN BURTON: Senator Johnson.

5 SENATOR JOHNSON: Let me ask you a question about
6 this filing with the FERC.

7 I understand it's very lengthy, and that you
8 haven't seen them all, under seal, and all the rest of that.

9 But apparently, based on comments in the press
10 and elsewhere, serious questions have arisen about the Los
11 Angeles Department of Water and Power, and that they may have
12 engaged in some of these activities, ricochet trading, Death
13 Star, Get Shorty, and all these things.

14 Assuming that that's the case, is the PUC and the
15 State of California able to act on those kinds of abuses from a
16 municipal utility without the FERC's involvement? Do we have to
17 wait for FERC with respect to the Los Angeles Department of
18 Water and Power?

19 MR. PEEVEY: You may not have to wait for FERC,
20 but the PUC has no jurisdiction over the Department of Water and
21 Power, zero, zilch.

22 SENATOR JOHNSON: I said the PUC or the State of
23 California.

24 MR. PEEVEY: The State of California, I mean,
25 every entity, from charter cities to any other government
26 entity, is subservient to the Legislature. I think that's the
27 Constitution of California. They're creations of.

28 I can't get into -- I don't know all the legal

1 details of that, but you could obviously legislate as you
2 choose.

3 SENATOR JOHNSON: Would it require legislation?
4 If the State of California, if the Governor of the State of
5 California is convinced that a public entity has ripped off the
6 taxpayers and ratepayers of California, does he have to go to
7 Washington, D.C. to look for some relief, or can he act, can we
8 collectively act, directly?

9 MR. PEEVEY: Well, presumably. I don't know if
10 the Governor could act. I think Legislature could act, and
11 subsequent to that, the Governor could act.

12 But, I mean, you know, we have to -- I'm not an
13 expert in constitutional law here, you know, in this regard.
14 But I do know that the cities let alone --

15 SENATOR JOHNSON: I don't mean to put you on the
16 spot.

17 But it just seems to me that one area where, if
18 the ratepayers and the taxpayers of California have been ripped
19 off, that we ought to be able to act without waiting for some
20 federal action, it would be with the Los Angeles Department of
21 Water and Power.

22 MR. PEEVEY: Well, any municipal, for that
23 matter. You could legislate, sure. No question.

24 SENATOR JOHNSON: I'm very sympathetic to what
25 you had to say about the parking issue and so on. So, this
26 question is not really directed at you, and I apologize, but
27 I've asked this question of a great number of appointees of the
28 Governor.

1 And the question, you indicated that you were
2 unaware of the reporting requirements and the gift limitation,
3 and so on.

4 In the process of your appointment, did anybody,
5 the Governor or anybody on the Governor's staff, talk to you
6 about reporting requirements and what the law entailed?

7 MR. PEEVEY: It is fair to say that additionally,
8 that the attorneys at the PUC helped me prepare the Assuming
9 Office Form 700, yes.

10 SENATOR JOHNSON: I understand that.

11 The question was, did the Governor or anyone in
12 the Governor's office talk to you about those reporting
13 requirements, and the need for strict compliance with them, and
14 so on?

15 MR. PEEVEY: I think Mr. Yamaki said, you know,
16 that there are various rules and regulations that one has to
17 follow. I don't remember the details of it, to be very frank.

18 SENATOR JOHNSON: All right.

19 I don't mean to dwell on it, but there seems to
20 be a pattern of the Governor's people not talking to folks about
21 that. And again, and again, and again appointees --

22 MR. PEEVEY: Awfully obscure.

23 SENATOR JOHNSON: It's obscure, but we have to do
24 the same thing. People who win election in November, by
25 December have to do those things.

26 CHAIRMAN BURTON: Could I just say one thing?

27 This is something that you may want to go back to
28 the Governor's thing, but the reporting situation we're talking

1 about here was post-taking office.

2 And what they might do, assuming they do
3 something, is talk about what you have to do on assuming office,
4 and just don't think they'll fill you in going back.

5 SENATOR JOHNSON: Yes, or they might not say
6 anything at all, which is the thrust of my question.

7 CHAIRMAN BURTON: Senator Romero.

8 SENATOR ROMERO: Thank you.

9 If it makes you feel any more secure, your
10 Assembly Member has arrived.

11 Let me ask you this. If I take a look at the
12 letters supporting you, you've got quite a diverse coalition.
13 You've got senior citizens, environmentalists, homeowners, labor
14 groups.

15 And then I take a look at some of the letters of
16 opposition, including, actually, my former Assembly district
17 committee executive board, 49th Assembly District. I see one,
18 Consumer Actions Network, representing consumers opposing you,
19 at least as far as the official letters.

20 I read the letter here, and again, too, as we
21 have spoken in the past as well, there are concerns as to
22 whether or not you will advocate for consumers. I mean, the
23 Public Utilities Commission was formed largely to protect and to
24 promote consumer interest, the public's interest.

25 Help me, since the time you appeared before us
26 last July and we spoke about these issues then, to now, help me
27 understand how you would counter some opposition to you, saying
28 that you are anti-consumer?

1 MR. PEEVEY: Well, I think I've voted as -- I've
2 been guided by my conscience, frankly, but I take seriously the
3 responsibility of the Public Utilities Commission to look after
4 the ratepayers' interests in California and to provide, as
5 Senator Burton said, just and reasonable rates, or any other
6 term equivalent to that, over a period of time.

7 I've tried to comport myself accordingly and vote
8 in such a manner. I don't think that I have knowingly voted
9 against any consumer interest in that period of time.

10 SENATOR ROMERO: You indicated at the beginning,
11 you are a private individual.

12 Part of me wonders, why would you want this
13 position, especially President of this Commission?

14 What do you hope to be your legacy? When people
15 look back on you, What do you want to be your legacy as having
16 been not only a member of the Commission but President? And
17 especially from the vantage point of looking at consumers.

18 MR. PEEVEY: Yes, well, I want to see us have
19 stability and predictability in terms of rates, like we've had
20 in the past.

21 I want see a far more energy-efficient society in
22 terms of our use of electricity and gas. There's many other
23 functions we regulate, too.

24 I want to see a, if I could put it this way, a
25 greener California with a greater reliance on renewable energy.

26 I think these are achievable things. And I want
27 to see greater diversity in the Commission and amongst all those
28 that it oversees.

1 If those things could be my legacy, I would be
2 pleased.

3 SENATOR ROMERO: Thank you.

4 CHAIRMAN BURTON: Senator Karnette had a
5 question.

6 SENATOR KARNETTE: Thank you, Senator Burton.

7 I had a question when we were discussing what the
8 PUC could and could not do about the municipalities that we
9 think might have overcharged.

10 I'm asking, do you feel that the PUC could
11 recommend that we pursue this issue, or investigate it to see if
12 there's any possibility?

13 From you what you said, I gather the Legislature
14 could follow up on this, and couldn't the PUC recommend that we
15 do that?

16 MR. PEEVEY: Well, yes, but we have no legal
17 authority. I mean, listen, this is going in where lions fear to
18 tread, because it's a very politically, you know, charged issue.

19 But if you want to give us the jurisdiction over
20 the munis in this area, we will accept it.

21 SENATOR KARNETTE: No, I didn't say that.

22 [Laughter.]

23 SENATOR KARNETTE: I didn't mean to say that.

24 At the hearing on Friday, when we were in the
25 Port of L.A., I just feel like if you felt like they should be
26 investigated, it's like when I talk about any bureaucracy, they
27 should let us know what's going on. Otherwise, we don't know.

28 MR. PEEVEY: I agree.

1 SENATOR KARNETTE: I mean, you would feel
2 comfortable recommending that we look at this or not?

3 MR. PEEVEY: I think we have to wait until the
4 seal is removed on the FERC filing to get the extent of the
5 charges of collusion, et al., between the municipal utilities,
6 of which almost every major one in the state was mentioned, and
7 the generators, and others in the state.

8 I think we ought to be a bit cautious until we
9 get the -- until the seal is removed. That's going to happen, I
10 believe, within ten days, hopefully within a week, and we'll
11 have a far better notion of that here.

12 We labor at the PUC at a disadvantage in a sense
13 that a third of the -- approximately a third of the electricity
14 in California is provided by municipal utilities. And we really
15 have no jurisdictional role in their lives whatsoever by law.
16 And so, we really don't have the kind of insight by any means
17 into them that we do into the investor-owned utilities.

18 SENATOR KARNETTE: I think you've answered it. I
19 had one other question.

20 When you were talking about the problems we have,
21 like we need more supply, we need larger supply, we need more
22 pipes and such. You mentioned storage and the difficulties --
23 I've been reading this in the binder. The storage is a
24 problem. And a lot of that is stored down around -- a lot of
25 the storage, you have the NIMBYs, and all that kind.

26 Whose responsibility is it to make sure there is
27 enough storage so we don't get a shortage of natural gas? Who
28 do you think has that responsibility? I mean, it's a private

1 entity, but --

2 MR. PEEVEY: It is, it is. But we have a
3 regulatory role to play and a responsibility in it. For
4 example, we approved last summer, on a contentious three-to-two
5 vote, that the doubling of the natural gas storage facility, the
6 project called Wild Goose in the Sacramento Valley.

7 I mean, the whole idea -- and I responded to
8 Senator Burton with this -- is to buy when it's cheap, store it,
9 and when prices rise, you have it in the ground, and you're able
10 to use --

11 CHAIRMAN BURTON: Sell it to somebody else at a
12 profit.

13 [Laughter.]

14 MR. PEEVEY: You don't want to go quite that far.

15 This is my frustration. We have proved that. It
16 took a three-to-two vote, and it was contentious.

17 We approved just last week something called Lodi
18 Gas Storage Project over in -- well, you know where Lodi is, 50
19 miles south of here. That application had sat at the Commission
20 for almost 18 months before we acted on it. There was no
21 opposition to it. There were concerns, some concerns, about
22 some affiliate relationships that could have come up in that
23 thing.

24 We have to move with some dispatch on these
25 matters. I mean, I think that just to let them sit for a long
26 time --

27 CHAIRMAN BURTON: Well, some concern on some
28 affiliate relations, we're just finding out how much troubles

1 were caused with affiliate relations. Those are valid concerns.

2 MR. PEEVEY: No, and they vanished in the course
3 of the process. I mean, the participants sold their interest in
4 it. I mean, there was nothing there, and there was no complaint
5 there.

6 SENATOR KARNETTE: But I still don't understand
7 what we can do?

8 MR. PEEVEY: What we can do is approve those
9 storage facilities so you can double or increase by 30-40
10 percent the amount of gas you have in the ground.

11 See, California imports 86 percent of its gas,
12 approximately. Only 14 percent comes from within here in the
13 state. We get it from Canada; we get it from the southwest.

14 You want to buy it when it's cheap, and have that
15 as a hedge. You want to have as much storage as you can
16 possibly have.

17 You can't compel someone -- we could compel, and
18 we have the ability to compel PG&E, or Southern California Gas
19 Company to expand their storage capacity. That's one way of
20 doing it.

21 We also need the ability to import more at any
22 one time that's in the pipelines. I mean, this is another whole
23 issue with El Paso Natural Gas Company. I mean, it's a
24 historic one, goes back off and on for 40-plus years, where, you
25 know, the state has sued them because of the feeling that they
26 restricted the amount of the gas coming into California at the
27 height of the electricity crisis to drive up prices. Then those
28 prices were further reflected in higher electricity prices. You

1 got a double whammy. This is all true.

2 The only way to solve that is to have more of it
3 coming in, and more storage within the state.

4 CHAIRMAN BURTON: And not necessarily take the
5 action they were going to do, to deregulate the natural gas
6 coming in?

7 In other words, there was a proposal before the
8 Commission that got stopped, that I guess you were ready to do
9 action on, and then people started figuring out that the record
10 was fairly stale, and they did that.

11 But for the fact, in my judgment, it would have
12 cost a hell of a lot of money to the State of California through
13 GSA purchases at a time we were broke, that would have gone
14 through like something through a goose, and the normal
15 ratepayers would have seen another little bump in their stuff.

16 So, I think it's only, my judgment, only because
17 there was a direct budgetary impact that kind of got people's
18 attention, to get people's attention, that it got reopened.

19 But what was the problem with the Wild Goose
20 deal? Was it an environmental problem? Was it community
21 concerns?

22 MR. PEEVEY: No, there was neither of those. The
23 Wild Goose already existed. This was a storage facility. This
24 was a doubling of its size.

25 The concern was that one of the principal
26 suppliers and owners at Wild Goose is a Canadian company, and
27 that in some way, that they could abuse that storage, the use of
28 that storage facility to maximize their profits and all.

1 It was -- frankly, I didn't follow it all the way
2 through. I didn't think it was very logical. It was not --

3 CHAIRMAN BURTON: So, there's some way that they
4 could have enlarged this storage, and it wouldn't have
5 necessarily benefitted the ratepayers of the state?

6 MR. PEEVEY: That seemed to be the allegation. I
7 didn't -- it didn't seem to hold water, well, or gas.

8 CHAIRMAN BURTON: That was the allegation. In
9 other words, if it was approved, were the safeguards in there to
10 say, if we're enlarging storage facilities in California, that's
11 what they're for?

12 MR. PEEVEY: Yes, there were.

13 CHAIRMAN BURTON: And that restriction came in as
14 part of the approval and wasn't necessarily something that was
15 there while it was sitting on somebody's table?

16 MR. PEEVEY: They agreed to meet our affiliate
17 rules in their responses.

18 CHAIRMAN BURTON: Initially their proposal did,
19 or after the Commission kind of held, if not their feet to the
20 fire, held them up for a while?

21 MR. PEEVEY: Their feet to the fire.

22 CHAIRMAN BURTON: In other words, it's like
23 there's a criticism of the Commission not going too fast on some
24 things, but the fact that when they went, in other words, there
25 was some stuff in the way that, if they'd approved it as asked
26 for, it would have benefitted the companies and not us.

27 MR. PEEVEY: That's true.

28 CHAIRMAN BURTON: But of course, they can get to

1 that earlier also. As they walk in the door, somebody could
2 say, "Fine, you do this; we'll do that."

3 It happens in our process all the time. When
4 somebody wants you to vote for a bill you don't want, you can
5 tell them up front, "Well, if you take this amendment I'm fine
6 with it," and it doesn't necessarily have to wait for Third
7 Reading.

8 Senator Knight.

9 SENATOR KNIGHT: After all of that, I was just
10 going to ask what your assessment was of our position this
11 summer with capacity?

12 MR. PEEVEY: You mean on electricity?

13 SENATOR KNIGHT: Yeah.

14 MR. PEEVEY: Well, I think that -- here's the way
15 things stand as of March 5th is, the snow pack in the Sierra is
16 below normal, not by a big margin, but it's like it's between
17 the 85 and 90 percent of normal.

18 We have another month to go before we do the
19 final snow pack measurement and the water content of the snow,
20 which is a critically important matter for knowing what kind of
21 hydro resources we'll have in California for the late spring and
22 early summer.

23 However, there are drought conditions in the
24 Pacific Northwest. And we import a lot of electricity in the
25 summer from the Pacific Northwest, much of it from Bonneville
26 Power Administration. If they don't have enough snow, they
27 don't have enough hydro. If they don't have enough hydro, the
28 prices go up, and we have a shortage situation.

1 We won't know the dimensions of that, just like
2 we don't know in California for approximately another month to
3 six weeks. It could be a serious problem this summer. If so,
4 we're going to have to have another, I think, major energy
5 conservation effort like we had in the summers of 2001 and 2002.

6 It's a little premature to say that. And I look
7 to the -- the Energy Commission collects a lot of this data, as
8 does CDWR, but I think we should be on notice that we could have
9 some problems this summer.

10 SENATOR KNIGHT: Is there any way that we can get
11 a handle on that early, a forecast so to speak, to just say, you
12 know, we need to do something now, because this is the kind of a
13 problem we're going to have?

14 MR. PEEVEY: It's starting to look like that in
15 the Pacific Northwest. I think that's true.

16 Although again, I think that the actual reading
17 of all this does wait approximately another month as the time in
18 which we do that.

19 SENATOR KNIGHT: I guess the point being that we
20 don't want to wait until it gets to be a full-blown crisis
21 before we understand or take any action.

22 MR. PEEVEY: I agree.

23 SENATOR KNIGHT: One other question.

24 We've talked about gas storage around. I've
25 heard of proposals to bring gas down from Alaska in a liquid
26 form. Freeze it and bring it down in big boats. And that it
27 would be economically feasible.

28 Has there been any thought about that? Have you

1 looked at it from a business standpoint?

2 MR. PEEVEY: It's called liquified natural gas.
3 And there are proposals to bring liquified natural gas to
4 California.

5 We went through this once in the late '70s, and
6 this Legislature passed a special bill in 1977 to site a
7 liquified natural gas -- to give the Public Utilities Commission
8 the responsibility of approving and siting a natural gas --
9 liquified natural gas receiving terminal at Point Concepcion in
10 Santa Barbara County.

11 By the time we did the process work, all around
12 the markets had changed, and it didn't become -- it was not
13 financially viable.

14 There are proposals again to site a liquified
15 natural gas facility in Los Angeles Harbor, to bring the gas
16 from Indonesia. Whether it is economic or not --

17 CHAIRMAN BURTON: From where?

18 MR. PEEVEY: From Sumatra.

19 CHAIRMAN BURTON: I was just talking about the
20 Brown family's oil thing.

21 MR. PEEVEY: Pertamina. Pertamina is the
22 National Oil Company, and they had name similar to that.

23 In any case, there are some proposals like that.

24 And there're also proposals to build a liquified
25 natural gas terminal in Baja California and pipe it up into
26 Southern California.

27 Whether these things are economically feasible or
28 not, I don't know.

1 SENATOR KNIGHT: Would it be possible for
2 California to make a deal with Alaska, which would be more of a
3 state-to-state negotiation?

4 MR. PEEVEY: Theoretically yes.

5 Actually, it's a little known fact, but Alaska
6 exports liquified natural gas today to Japan. Has for 25 years.
7 It's a byproduct of the Alaskan pipeline that comes down from
8 Prudhoe Bay. And at the time, nobody in California wanted that
9 gas because it was too highly priced, so the Japanese took it,
10 and it goes to Japan under a long-term contract.

11 CHAIRMAN BURTON: One last question.

12 Shouldn't all those DWR long-term contracts take
13 care of a lot of this summer stuff?

14 MR. PEEVEY: Yes.

15 CHAIRMAN BURTON: Do you want to introduce
16 anybody here?

17 MR. PEEVEY: I'd like to introduce my wife. I
18 understand she arrived. She's taken with Jack Scott.

19 CHAIRMAN BURTON: Welcome, Carol.

20 CHAIRMAN BURTON: We'll take a short break for
21 the court reporter.

22 [Thereupon a brief recess
23 was taken.]

24 CHAIRMAN BURTON: Just a couple questions on
25 telecommunications.

26 An issue came up, and I don't know even know
27 whether you guys dealt with it, deal with it, or what. But
28 let's go back six months so I could say right now that AT&T was

1 allowed their long distance company but also could do local.

2 MR. PEEVEY: Correct.

3 CHAIRMAN BURTON: But the local company, Pac
4 Bell, could do local and not long distance.

5 MR. PEEVEY: Right.

6 CHAIRMAN BURTON: Then there was something before
7 the Commission that allowed them to go into long distance?

8 MR. PEEVEY: Yes.

9 CHAIRMAN BURTON: Where is that?

10 MR. PEEVEY: It was approved on December 30th.

11 CHAIRMAN BURTON: It didn't make any sense to me.
12 It was always what was sauce for the goose.

13 MR. PEEVEY: There was a staggered period. We
14 approved one in September and the other not until December 30th.
15 And frankly, it could have gone another few months.

16 CHAIRMAN BURTON: Do you think the local
17 telephone market's competitive at all today? Probably not.

18 MR. PEEVEY: Local telephone market.

19 CHAIRMAN BURTON: Whatever that is.

20 MR. PEEVEY: Well, the reason one hesitates,
21 there's so many pieces to it now with cell phones and
22 everything. You know, technology's gone by so fast in this
23 thing, it's kind of outstripping some abilities to regulate.

24 CHAIRMAN BURTON: Just respond to this. Do you
25 think it would be a prudent investment for a businessman to get
26 into the pay phone business.

27 [Laughter.]

28 CHAIRMAN BURTON: And then want to be Governor

1 of the state.

2 MR. PEEVEY: In 1962.

3 CHAIRMAN BURTON: Yeah.

4 Witnesses in support, and let's be brief.

5 MR. CARTER: I shall be brief, Mr. Chairman.

6 Art Carter, representing the Coalition of Utility
7 Employees.

8 We are here in support today of Mike Peevey,
9 someone whom I've known probably second longest in the room to
10 anybody, except for you, Mr. Chair.

11 Senator Romero, I picked up on your comment about
12 some of those who are opposed to Mr. Peevey. I actually first
13 heard Mike Peevey in his capacity as a labor economist for the
14 California Labor Federation, appearing before the California
15 PUC, arguing that the general rate case proceeding of PG&E at
16 the time was allowing too high a profit margin for them.

17 Now, those who are detractors may argue that that
18 was a long time ago.

19 We support Mike Peevey not simply because of his
20 history. I've known him as a labor economist, as President of
21 the Southern California Edison Company, and as someone who
22 started his own company.

23 In my view, Mike Peevey is probably best
24 qualified to understand every stakeholder group that comes
25 before the PUC, having had direct experience in a number of
26 different ways. And someone of his experience, and his age, and
27 I would argue wisdom, I think, is one who knows that he's going
28 to be closely watched by ratepayer groups, consumers, and others

1 as to whether or not his previous work experience is one that is
2 biasing in some fashion or not.

3 We support Mike Peevey because we hope the
4 Commission under his leadership will address some issues such as
5 system reliability, ratepayer fairness. Those are the kinds of
6 things that he brings to us.

7 I don't speak simply here on behalf of the unions
8 who happen to be employed by the investor-owned utilities, but
9 also because many thousands of union members are also
10 ratepayers. So, in our view, he, by virtue of his experience,
11 brings real assets to be able to determine whether or not a
12 proceeding, whether it's general rate case of any of the
13 utilities under the PUC's jurisdiction, or any other group, is
14 trying to snowball the Commission. I think he has that kind of
15 capacity.

16 So, on behalf of CUE, I would hope that the Rules
17 Committee would give him a do pass and support.

18 Thank you.

19 CHAIRMAN BURTON: Questions of the witness?

20 Next.

21 MS. BERRIO: Good afternoon, Senators. Itzel
22 Berrio on behalf of the Greenlining Institute.

23 The Greenlining Institute is a consumer advocacy
24 group with 39 members, which include minority business
25 organizations, faith-based organizations, community groups, and
26 immigrant service groups.

27 We are here because we strongly support
28 Commissioner Peevey's appointment today.

1 We do have some concerns, however, regarding the
2 appointment process and the impact on the Commission's ability
3 to address the concerns of the poor and minorities.

4 Governor Davis has made six appointments to the
5 Public Utilities Commission. All of these appointments have
6 been white. This is true despite strong concerns expressed by
7 the Greenlining Institute, Latino Issues Forum, and scores of
8 other minority groups.

9 Our second concern is that the PUC, until very
10 recently, has been either unconcerned or uninterested with the
11 problems of the poor, senior citizens, new immigrants,
12 minorities, and other underserved communities, or has been
13 ineffectual in addressing their problems.

14 Greenlining strongly supports Mr. Peevey's
15 confirmation because we believe that he has the skill and the
16 commitment to lead this Commission in a way that will restore
17 confidence, not only in underserved communities, but also among
18 utility companies. Greenlining first worked with Mr. Peevey
19 when he was Executive Vice President of Edison, and in that
20 capacity he showed a strong commitment to diversity in the
21 workforce, including at top management, and to supporting
22 utility policies that would protect the interests of the poor.
23 This commitment and effectiveness has been demonstrated, albeit
24 under different circumstances, during his nearly one year as a
25 Commissioner and his very brief stint as President of the
26 Commission.

27 Another concern of ours is the fact that the CPUC
28 is underfunded and understaffed. As such, it cannot do a good

1 job, much less an excellent job in this era of deregulation and
2 increasing corporate irresponsibility.

3 In the past, we have not supported additional
4 funding to CPUC because we questioned either its commitment or
5 its effectiveness. We would hope that, however, if President
6 Peevey and the Commission can demonstrate over the next year
7 that they truly can make a difference, particularly among
8 vulnerable populations, that the Legislature substantially
9 increase the CPUC's budget, much as President Bush has almost
10 doubled the budget of the SEC.

11 Finally, in supporting the confirmation of
12 President Peevey, Greenlining must raise one of the great
13 concerns of Greenlining and consumer groups generally, and this
14 is the raising of the public interest standard in all important
15 CPUC proceedings. President Peevey has committed to doing so,
16 and for this we applaud him.

17 There is one aspect of public interest, and the
18 jury is still out on this issue. This is regarding the
19 relatively trivial slap-on-the-wrist penalties to utilities that
20 engage in egregious fraud. Unfortunately in the CPUC's history,
21 most large corporations receive penalties, even for the most
22 egregious conduct, that amount to less than one day's revenue,
23 and in some cases, less than one hour's revenue. This body may
24 wish to inquire.

25 But for the above-stated reasons, and for
26 Mr. Peevey's commitment, we do support him in his confirmation
27 today.

28 CHAIRMAN BURTON: Thank you very much.

1 Next.

2 MS. IMAI: Good afternoon. My name is Lindsay
3 Imai with the Greenlining Institute, but I'm here reading a
4 statement on behalf of Darlene Mar, who is the Chair of the
5 Asian American -- the Council of Asian American Business
6 Associations.

7 "As Chair of the Council of
8 Asian American Business Associations,
9 I have witnessed the California Public
10 Utilities fail the minority business
11 community, especially under the
12 leadership of the past two CPUC
13 Presidents. In testifying before them,
14 and even if we had the fortune of
15 meeting with them, we have been ignored,
16 disappointed by the lack of responses to
17 our issues, and not taken seriously.

18 "As a commission with staff who
19 is set up to protect Californians yet
20 excludes minority businesses, it is not
21 the type of public platform that the
22 CPUC should be noted for. Indeed, it
23 is only by your action, Senators, that
24 the CPUC has done anything to support
25 us.

26 "Fortunately, our limited exposure
27 to President Michael Peevey indicates
28 that he is sympathetic to our issues.

1 Furthermore, we are very aware of his
2 stated commitment to diversity. We
3 anticipate his assurance to our
4 communities will bring about important
5 changes at the CPUC. For these reasons,
6 we support the confirmation of President
7 Peevey.

8 "We also want to mention that no
9 Asian American has ever sat on the
10 Public Utilities Commission, and only a
11 few, if any, have sat on their committees.
12 It is disgraceful to have a California
13 commission whose commissioners do not
14 represent the diverse population of
15 Californians. We feel that such an
16 appointment is long overdue. We hope
17 that in confirming President Peevey with
18 our support, you will also record this
19 fact."

20 Thank you.

21 CHAIRMAN BURTON: Thank you, ma'am.

22 Next.

23 MR. PHILLIPS: Hello, my name is Mister
24 Phillips, and Mister is my first name. I'm an associate with
25 the Greenlining Institute, and I'm here to read a statement on
26 behalf of Dr. J. Alfred Smith, the Senior Pastor at Allen Temple
27 Baptist Church in Oakland.

28 Dr. Smith says,

1 "I regret that I could not be
2 here personally with members of my
3 church to discuss our views of the
4 CPUC and the role of President
5 Michael Peevey.

6 "I am the Pastor of Allen Temple
7 Baptist Church of Oakland. Our
8 membership consists of over 5,000
9 families, primarily low and moderate
10 income African Americans.

11 "Our church members, including our
12 Seniors, have come before the CPUC on a
13 number of occasions and have been
14 disappointed. One example was when 50
15 of our Seniors, on their own, came to
16 the Public Utilities Commission to
17 protest a possible rate increase by
18 PG&E during the energy crisis. Our
19 members were greeted by eight highway
20 patrolmen, and the Commission would
21 not even allow us into the large
22 hearing room to testify.

23 "From what we have discovered
24 from Greenlining, President Peevey will
25 be different. We hope so."

26 Doctor Smith would like to close with a small prayer:

27 "May Mr. Peevey be confirmed as
28 President of this Commission most

1 mighty and important body. May he
2 remember those who rely upon him,
3 need him, and have supported him.
4 May he carry out the teachings of
5 Jesus, and may he not forget the
6 least among us. In Jesus' name,
7 Amen.

8 "Prayerfully, Dr. J. Alfred
9 Smith, Senior Pastor."

10 Allen Temple Baptist Church.

11 CHAIRMAN BURTON: Thank you, sir.

12 Next.

13 MR. LYONS: Senator and Members, Joe Lyons with
14 the California Manufacturers and Technology Association.

15 CMTA Supports the confirmation of President
16 Peevey based on his thoughtful approach to issues, his years of
17 experience, and when it comes to the weighty and complicated
18 issues that are before the Commission, there's no substitute for
19 experience, and his hard work at the Commission putting together
20 -- putting the pieces back together, again, after the crisis of
21 2001.

22 With President Peevey, we may not always agree
23 with him, but at least we know we're going to get a fair
24 hearing.

25 Thank you.

26 MS. BERGUM: Good afternoon, Mr. Chair and
27 Senators. My name Shelley Bergum. I'm the Executive Director
28 of the Deaf and Disabled Telecommunications Program, which is a

1 program of the Public Utilities Commission to provide
2 specialized telecommunications equipment and services to people
3 who are deaf and people who are disabled here in California.

4 Through our program we provide specialized
5 telephone equipment to about 500,000 deaf and disabled people
6 here in the state, and through the California Relay Service, we
7 relay about 7 million telephone calls a year for people who are
8 deaf and hard of hearing.

9 In Mr. Peevey's short term on the Commission so
10 far, we have had the opportunity to work with him on a number of
11 issues related to our program. And we have found him to
12 exemplify one of the most important qualities of leadership, and
13 that is the ability to listen to people who know more about the
14 issue at hand than he does, and the ability to learn from the
15 expertise and the experience of individuals who have been
16 involved in that issue.

17 We've been impressed with Mr. Peevey's ability to
18 learn quickly about the issues which are important to our
19 community, and then to move forward and make credible, informed
20 decisions based on the knowledge of others which he has taken
21 the time to learn. We have had experience with few other
22 Commissioners who have taken this opportunity to learn as much
23 as about our program as Mr. Peevey has.

24 So, on behalf of my program and on behalf of the
25 three consumer-appointed committees which govern our program,
26 I'd like to heartily endorse the confirmation of Commissioner
27 Peevey and hope you vote to take that action today.

28 Thank you very much.

1 CHAIRMAN BURTON: Thank you very much, ma'am.

2 Next.

3 MR. WHITE: Mr. Chairman, Members, I'm John
4 White. I'm here on behalf of the Center for Energy Efficiency
5 and Renewable Technologies, and also the Natural Resource
6 Defense Council, Environmental Defense, and Union of Concerned
7 Scientists, who couldn't be here but asked me to say a word.

8 We have found that Mike's tenure on the
9 Commission has gotten better as it's gone, and that in the last
10 several months he's managed to answer some questions in a very
11 strong and affirmative way about his commitment to both the
12 environment and to renewables. We think that he has got us on
13 the right track in implementation of things the Legislature has
14 asked the Commission to do in the environmental area.

15 We think he also is savvy enough and experienced
16 enough to get the utilities, when needed, to listen and to act
17 in the public interest. That's a very important part of the
18 job. And we think that he is the person to hold folks
19 accountable.

20 I think we have found he's also been accessible.
21 We also think his knowledge and his history as on display this
22 afternoon, taking us back to some of the crises that have
23 recurred, unfortunately, in our state's history, gives him a
24 unique ability to be the guy at the right time to do things that
25 we need to do.

26 The Energy Action Plan that he has brought forth
27 with his colleagues at the Energy Commission and the Power
28 Authority begins us on the road to getting a plan of where we're

1 going to go.

2 We don't always agree with him, and we sometimes
3 have strong arguments, but we also think that his command of the
4 subject and his dedication to public service commends his
5 appointment. We urge an aye vote.

6 CHAIRMAN BURTON: Thank you.

7 MR. PLOTKIN: Mr. Chairman, Senators, Norman
8 Plotkin, representing the Alliance for Retail Energy Markets.

9 I'd just like to echo the remarks earlier about
10 President Peevey's unique qualifications and recommend an aye
11 vote on his confirmation.

12 CHAIRMAN BURTON: Witnesses in opposition?

13 MR. GOLDBERG: Lenny Goldberg on behalf of TURN.

14 We are here to express concerns. Traditionally
15 we have never taken positions for or against Commissioners. We
16 appear in so many different proceedings on so many different
17 issues that we're sure we disagree and agree, depending on --

18 CHAIRMAN BURTON: This is a concern?

19 MR. GOLDBERG: A concern as opposed to an
20 opposition.

21 I want to put forward, residential customers have
22 experienced substantial electric rate increases starting in
23 2001. And we are very concerned about the direction of the
24 Commission with regard to residential, and where residential
25 rates are going, and a quote-unquote, "business friendly
26 commission" which will cost residential customers potentially
27 billions of dollars.

28 With regard to the failure to end the direct

1 access exodus, Commissioner Peevey has voted not to suspend
2 direct access retroactive to July 1st. And we think that the
3 current artificially low exit fee of 2.7 cents is asking for a
4 massive loan from small ratepayers, from all ratepayers, to pay
5 for the exit fees of direct access customers. And in fact,
6 because of the so-called loan, will take something close to 20
7 years to be paid back. We doubt the Commission will follow
8 through with that, and we believe that other, whether it's small
9 business or other residential ratepayers, are as a result being
10 obligated to pay for the costs of direct access, which should
11 have had the plug pulled and should pay the full costs that are
12 being left behind with ratepayers.

13 We're concerned about asymmetrical treatment when
14 we look at baseline expansion. The question is, is that just
15 going to be -- will that be paid for by residential classes?
16 Well, if residential classes are paying for direct access and
17 their costs, we need to see a real consistency of treatment
18 here.

19 We have -- we are very --

20 CHAIRMAN BURTON: How would baseline expansion,
21 going to hurt the residential --

22 MR. GOLDBERG: It's typically been in -- the
23 question is whether those costs are paid broad -- if we are
24 paying costs of other classes, the question is whether the
25 asymmetrical -- will baseline -- will any of baseline expansion
26 costs, are they staying within the residential class, or will
27 those be spread to -- throughout the customer classes?

28 CHAIRMAN BURTON: Baseline definition?

1 MR. GOLDBERG: Baseline expansion, higher
2 baseline amounts being allowed depending on climatic conditions,
3 therefore lower revenue coming in from those customers.

4 CHAIRMAN BURTON: Is there not something in
5 statute right now, 130 percent of baseline?

6 MR. GOLDBERG: That is correct, and one of --

7 CHAIRMAN BURTON: So, that part can't go up
8 without statutory changes.

9 MR. GOLDBERG: That is correct. Although, we
10 were opposed to a decision that allowed the bond costs --

11 CHAIRMAN BURTON: I understand that.

12 MR. GOLDBERG: Okay, that's on the 130 percent of
13 baseline.

14 CHAIRMAN BURTON: Passing the bond surcharge end
15 of that, on which we had a discussion with President Peevey
16 yesterday, Senator Bowen and I. And he has pledged to review
17 that because we have expressed a concern about that issue there,
18 that then you get the definitions and lawsuits, whether it's a
19 rate or whether it's a charge.

20 MR. GOLDBERG: Right. Well, that is one of the
21 pieces we're talking about.

22 CHAIRMAN BURTON: That type of thing.

23 MR. GOLDBERG: I'll leave it at that. That's
24 right in terms of additional impositions on baseline.

25 The SDG&E \$130 million, the proposed ALJ decision
26 required SDG&E to credit \$130 million to customers.

27 Mr. Peevey's alternate changed that view, and the
28 \$130 million at about \$50 per residential customer obligation

1 was imposed. We know there's a lot of discussion of the SDG&E
2 settlement, and we think that had the ALJ decision been followed
3 instead of Mr. Peevey's alternate, the residential ratepayers in
4 San Diego would have saved \$130 million. We thought that was an
5 unfortunate decision, and our concern is, is there a trend in
6 these decisions that -- such as the bond decision on the 130
7 percent of baseline, that has a -- that could cause problem for
8 our residential customers.

9 Another major issue that could cost residential
10 customers billions of dollars is the real-time metering issue.
11 Potentially, we think that -- it's our understanding that
12 Commissioner Peevey wants to champion these advanced metering
13 technologies. For businesses that may be fine. We've done some
14 analysis of it and find for -- particularly for lower income
15 ratepayers, seniors, renters, requirements for advanced metering
16 costs will cost billions of dollars. Very, very difficult to
17 find any of the savings in the shifting. You know, we
18 understand the overall question of shifting the use of power
19 from peak times, but a mandatory metering program for 10 million
20 residential and small commercial customers would cost between
21 \$6-8 billion. And on small ratepayers, we very much question
22 the benefit of that, and I think that's probably -- it's
23 certainly an honest disagreement with Mr. Peevey, but we think
24 it's an unfortunate push onto small customers where we don't
25 think the benefits will be warranted.

26 SENATOR JOHNSON: There's no rush in going
27 forward with it.

28 MR. GOLDBERG: We're looking at a long --

1 SENATOR JOHNSON: You have now in the works a
2 test, a pilot test?

3 MR. PEEVEY: Yes, yes, that's it.

4 SENATOR JOHNSON: You're not proposing to apply
5 this to 10 million residential customers?

6 MR. PEEVEY: No, we are not. The only thing that
7 the Action Plan, the Draft Action Plan of the three agencies
8 says is to implement a voluntary program to reduce peak demand
9 for business. That's it; that's all there is.

10 MR. GOLDBERG: Well, for business, we're fine
11 with that. As I said, I think this is maybe an honest
12 disagreement with the direction we would be going in, but we
13 would, you know, strongly disagree with that direction.

14 SENATOR JOHNSON: You're reticent about it.

15 MR. GOLDBERG: Right.

16 I mentioned the bond charge.

17 And then the questions of gas, Southern
18 California Gas is unbundling. We do think there are problems
19 with that. That's an ongoing proceeding. We have not seen the
20 benefits, and I think, again, we may have a disagreement with
21 Mr. Peevey about the direction of that proceeding.

22 I think I will leave it there. I think there's a
23 number -- the general and overall concerns are in the effort
24 to -- that we may see a commission, and this has been a regular
25 and much-expressed concern: a commission that is more
26 interested in the financial position in the markets of the
27 utilities and the responsiveness to large customers than it is
28 putting forward the interests of small customers. And that will

1 be an ongoing concern on this Commission.

2 CHAIRMAN BURTON: Do me a favor. Go back to the
3 one, the concern before SDG&E.

4 MR. GOLDBERG: Well, the SDG&E --

5 CHAIRMAN BURTON: No, no, before that. You
6 raised an issue that I was going to ask a question about, and I
7 can't remember what it was.

8 MR. GOLDBERG: The real-time metering.

9 CHAIRMAN BURTON: No, before.

10 MR. GOLDBERG: The bond charge on the 130 percent
11 baseline?

12 CHAIRMAN BURTON: No, we dealt with that. Before
13 that.

14 Why don't you give me your statement. When the
15 other guy comes up, I'll find it.

16 MR. GOLDBERG: Direct access.

17 CHAIRMAN BURTON: No, I'll find it.

18 Why don't you come on up, then I'll have some
19 questions.

20 MR. HELLER: Thank you, Mr. President, Members
21 of this Committee.

22 My name is Douglas Heller. I'm the Senior
23 Consumer Advocate with the Foundation for Taxpayer and Consumer
24 Rights.

25 As you know, Members, and discussed earlier, the
26 California Code of Regulations states in its conflict of
27 interest disclosure section that no member of a state board or
28 commission, and no designated employee, et cetera, shall accept

1 gifts with a total value of more than \$340 in a calendar year.
2 It had been 320; it is now, under the current rules, 340 from
3 any single source.

4 On Monday, however, Mr. Peevey disclosed in his
5 Statement of Economic Interest that he had, as you know and has
6 been discussed, illegally accepted more than \$2,000 free parking
7 at the San Francisco Airport. Which, as a side note, though
8 unrelated to the conflict rules, the CPUC has certain regulatory
9 authority over the airport. But regardless of the source, with
10 limited exceptions, a Commissioner simply may not accept gifts
11 of such a size.

12 Mr. Peevey, according to an addendum attached to
13 the filing, stated that he was unclear about the rules governing
14 conflicts of interest.

15 This is simply unacceptable. This is not an
16 excuse. If you violate the law, you have violated the law.
17 That's why we have these laws.

18 And Senator Johnson discussed earlier the
19 question of education for people that are new hires or new
20 appointees. We simply believe that you have an obligation if
21 you are a servant of the public to fulfill the rules, to uphold
22 the law, and abide by the law.

23 But even if Mr. Peevey had questions about
24 whether or not he was allowed to accept such gifts from an
25 entity, and if he had such questions, the CPUC, as I think you
26 all know, has an ethics staff in the CPUC Legal Division to
27 which he should have turned.

28 Furthermore, there was an ongoing investigation

1 at the -- excuse me, there was an ongoing investigation into the
2 illegal stock holdings. In fact, a lawsuit against a former PUC
3 Commissioner, Mr. Henry Duque. And as a result, Mr. Peevey
4 should have been well aware that there are conflict of interest
5 statutes that apply to Commissioners.

6 And finally, the conflict of interest rules of
7 the State state very clearly that any designated employee who is
8 unsure of his or her duties under this code may request
9 assistance from the FPPC.

10 Now Mr. President, last year this Committee
11 considered Mr. Peevey's nomination, and I spoke to a variety of
12 issues at that hearing as well. But this Committee did not
13 recommend such confirmation, as there were outstanding --

14 CHAIRMAN BURTON: It was not a hearing -- it was
15 to recommend it.

16 MR. HELLER: Fair enough. I don't mean to imply
17 that it was something else.

18 CHAIRMAN BURTON: It was a public hearing to get
19 certain things on the record, and to let Mr. Peevey know of what
20 some of our concerns would be going forward.

21 So, I mean, he wasn't denied or given anything,
22 just for the record.

23 MR. HELLER: For the record, and that is what I
24 meant to imply. I apologize if I didn't.

25 But I would like to say that at least in our
26 organizational opinion, perhaps in yours, perhaps not,
27 Mr. Peevey was, at least in some respect, in a probationary
28 position until now, that there was going to be an effort by the

1 public, certainly by the Senate, to review his work and to
2 ensure over the last eight month -- over this eight-month period
3 that Mr. Peevey was sufficiently independent of a variety of --
4 sufficiently independent to serve as a Commissioner.

5 Now, as you know, prior to his work on the
6 Commission, Mr. Peevey ran a direct access-related energy firm.
7 As the Commissioner just indicated, Mr. Peevey has been an
8 advocate of policies directly affecting direct access companies.

9 There was mention of real-time metering, and as
10 discussion has indicated, Mr. Peevey has been an advocate of
11 real-time pricing.

12 We think that the wall between Mr. Peevey and his
13 past employment is simply not high enough. To use Mr. Peevey's
14 words, he was and is high up enough in his professional career
15 to see over the wall.

16 But it was most surprising to us to read not
17 Monday when the filings were due, but not until late yesterday
18 when we finally were able to get these Form 700 filings, we were
19 just absolutely surprised that Mr. Peevey would accept illegal
20 gifts, such as those received from SFO. A public servant's
21 duty, as I said, is simply to uphold the law and abide by the
22 law. And the public trust is the chief currency of public
23 employees. And this behavior simply doesn't cash out.

24 So in conclusion, Mr. Peevey has not demonstrated
25 the independence the public needs of a Commissioner, indeed, the
26 President of the PUC. He has instead just demonstrated a
27 disregard for the law, which is nothing less than disrespect for
28 the people of California. Simply put, the public is sick and

1 tired of officials who come into office and disregard the law,
2 who accept gifts that they shouldn't be accepting. It is not
3 what we expect of the people in office and the people appointed
4 to office.

5 It would be, in our view, inappropriate to allow
6 Mr. Peevey to continue as a Commissioner, and we urge you to not
7 recommend his confirmation to the full Senate.

8 Thank you for the opportunity.

9 CHAIRMAN BURTON: Just to get back on the record
10 on dealing with the direct access exit fees, they're going to
11 reopen the record? They're going to re-hear that --

12 I don't need you. I've got the written document,
13 Lenny.

14 [Laughter.]

15 CHAIRMAN BURTON: I was asking the Commissioner.
16 So, that's an affirmative answer.

17 MR. PEEVEY: Yes.

18 CHAIRMAN BURTON: Do you want to comment, and you
19 discussed this briefly in a meeting with Senator Bowen and I
20 about, as you called it, a forced loan, the direct access stuff
21 between the cap and the cost as a forced loan, that would cause
22 ratepayers now, in all probability, to forego a rate decrease?

23 MR. PEEVEY: No, it would limit. It would limit,
24 but it would not forego.

25 CHAIRMAN BURTON: It would forego rate decrease
26 they would get but for the forced loan?

27 MR. PEEVEY: That's right.

28 CHAIRMAN BURTON: And that'll be made up to them

1 how?

2 MR. PEEVEY: That's the point of charging an
3 interest rate, so that they would be indifferent to it. In
4 other words, they get back enough money on interest to
5 compensate.

6 But this doesn't, you know -- that's the way it
7 works.

8 CHAIRMAN BURTON: Unless you happen to die before
9 loans are paid.

10 MR. PEEVEY: Right.

11 CHAIRMAN BURTON: Would it go to the heirs?

12 MR. PEEVEY: It would go to the contingent --

13 CHAIRMAN BURTON: Contingent fund.

14 On the San Diego, the issue raised on San Diego
15 Gas and Electric, you voted. What was your reasoning on your
16 vote to ignore the ALJ's decision? I think this was discussed
17 yesterday, but I can't remember.

18 MR. PEEVEY: Well, it was the recommendation of
19 the legal staff of the Commission that a settlement be entered
20 into with San Diego because the risk of ratepayer loss if a
21 lawsuit, which San Diego had filed in federal court, if that
22 lawsuit was successful, the risk of loss to San Diego ratepayers
23 would be in the hundreds of millions of dollars.

24 So, it was recommended by the General Counsel and
25 by Larry Chasset, who's Assistant General Counsel, that a
26 settlement be reached between San Diego and the Commission that
27 would forego that lawsuit, and that's what I voted for.

28 CHAIRMAN BURTON: So, the ALJ guy didn't know what

1 he was doing, or what?

2 MR. PEEVEY: I wouldn't say he didn't know what
3 he was doing. Opinions differ. The best legal advice that we
4 could get, and there were the majority of us, was that the
5 Commission was better served, and the public better served in
6 San Diego by having a settlement rather risk it all in a
7 lawsuit.

8 CHAIRMAN BURTON: What were you going to risk in
9 a lawsuit? What would have happened if they won?

10 MR. PEEVEY: About \$300 million would have gone
11 from ratepayers to San Diego shareholders.

12 CHAIRMAN BURTON: I wanted to mention this to
13 Lenny, but he left.

14 But as I remember the so-called real-time
15 metering, we talked about that during the last energy crisis as
16 a way to try to get people off -- you know, give them cheaper
17 stuff off peak hours.

18 MR. PEEVEY: You have a bill that passed last
19 year.

20 CHAIRMAN BURTON: I understand that. I was
21 absolving you of that issue.

22 [Laughter.]

23 CHAIRMAN BURTON: Just in closing, and I had
24 this discussion with Commissioner Peevey a couple times
25 privately, but to put it on the record, some of the concerns
26 expressed are concerns that I have with the direction of the
27 Commission, going back to the Governor's State of the State
28 Address, where he was going to direct this group and that group

1 and the Commission to do everything possible to further the
2 business climate in the state. Which may be fine, but if they
3 furtherer it at the expense of small businesses and residential
4 customers, it wouldn't be, in my judgment, the right thing.

5 As I said, 35 years of knowing Mr. Peevey, and
6 the letter that I sent him when I asked him questions, I said,
7 when he thinks about himself as having worked for a utility,
8 remember his days when he worked for the State Federation of
9 Labor, so we can reach deep into our memories for the issues.

10 But it is my intention to support the nomination.
11 It's also my intention to watch, keep an eye on the actions of
12 the Commission. And it is my intention that if we see things
13 that, you know, not just are differences in judgment between at
14 least myself or other Members of the Legislature and Commission,
15 it'd be one thing. But if we see things going far afield I'm
16 more than willing to take money out of the budget, put it into a
17 bill with some statutory changes in it.

18 We may want to do some statutory changes of some
19 of the things that came up here regardless.

20 With that, I would move the nomination.

21 SECRETARY WEBB: Senator Karnette.

22 SENATOR KARNETTE: Aye.

23 SECRETARY WEBB: Karnette Aye. Senator Knight.

24 SENATOR KNIGHT: Aye.

25 SECRETARY WEBB: Knight Aye. Senator Romero.

26 Senator Johnson.

27 SENATOR JOHNSON: Aye.

28 SECRETARY WEBB: Johnson Aye. Senator Burton.

1 CHAIRMAN BURTON: Aye.

2 SECRETARY WEBB: Burton Aye. Four to zero.

3 CHAIRMAN BURTON: Congratulations, Michael.

4 MR. PEEVEY: Thank you.

5 CHAIRMAN BURTON: Oh, and just one other thing
6 for Doug Heller, I guess.

7 If the FPPC finds him in violation, that's what
8 they issue fines for. And just for your edification, always
9 could have bought down if you'd thought of it, which you didn't.

10 MR. PEEVEY: I know, but what I found out was,
11 there's no one time I parked there that was --

12 CHAIRMAN BURTON: No, you could buy down the
13 value of the gift.

14 MR. PEEVEY: I could have paid it back, but you
15 can't pay it back. You have to pay it back within 30 days. I
16 found that out last week.

17 CHAIRMAN BURTON: Never mind.

18 [Thereupon this portion of the
19 Senate Rules Committee hearing
20 was terminated at approximately
21 3:30 P.M.]

22 --ooOoo--
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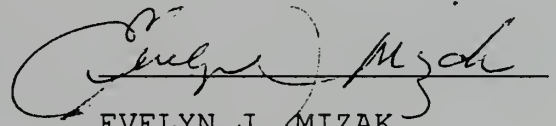
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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

GARY M. CRAMER, Member
Court Reporters Board

SANDRA M. BUNCH
California Court Reporters Association (CCRA)

YVONNE FENNER
CCRA

CHERYL REDLICH
Sacramento Official Court Reporters Association

ALLEN DAVENPORT, Director
Government Relations
SEIU

MARY BARDELLINI, President
Deposition Reporters Association

1 DEBRA P. CODEGA
2 District 3 Representative
3 Deposition Reporters Association

4 CATHRYN I. RIVERA-HERNANDEZ, Member
5 Agricultural Labor Relations Board
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: First thing, Gary Cramer,
Member of the Court Reporters Board.

MR. CRAMER: Thank you for giving me an
opportunity to appear.

My name is Gary Cramer. I've been a court
reporter for about 35 years. I guess that makes me old.

With regard to -- I work -- excuse me. I work
for the Los Angeles Superior Court, and prior to that worked for
Los Angeles Municipal Court before unification.

With regard to Board actions that I've been
engaged in since appointment by the Governor, I have worked with
the Joint Legislative Sunset Review Committee to implement,
enhance consumer protection of students enrolled in court
reporting schools, which has been a serious problem; improve the
pass rate of examination by pretesting of subject matter.
Experts, we've developed a new occupational analysis of court
reporting that's testing the -- that's a testing plan of
knowledge and skills and abilities; improve the dictation and
pretesting of the design to increase the number of evaluators.

We've got a Memorandum of Understanding with the
Bureau of Private Postsecondary Vocational Education to
cooperate in joint school oversight, revision and distribution
of new consumer brochure. Modification and increase court
reporter school teacher qualification, and that came through the
sunset and review process and through legislation, or the
mandates of legislation; development and standardization for

1 school -- I'm sorry, for students, school qualifier tests.

2 Development of a strategic plan, we've developed
3 a mission statement, a vision statement, testing of applicants
4 for the CSR licensure.

5 I've attended professional association meetings
6 and provided training to Court Reporter Board staff. We've --
7 that's been an area that I've had a particular interest in,
8 given the fact that there has not been a reporter who works in
9 court on the Board in about 15 years. We've had just free-lance
10 court reporters on the Board during that 15-year period.

11 I've also helped organize subject matter experts
12 for test validation.

13 And then in terms of the goals that I personally
14 have as regards what I think I have some particular expertise in
15 for the Board is in improving communication with consumers;
16 identify rules, regulations, and statutes that need
17 clarification for consumer protection; ensure the adequacy of
18 information and availability to the students to make -- so that
19 they can make informed judgments concerning educational -- their
20 educational success of each of the schools that teaches court
21 reporting.

22 I think there's a real need for the development
23 of a compendium of rules, regulations, and statutes applicable
24 to official and free-lance court reporters. There is actually
25 nobody in the entire State of California that is responsible for
26 notifying court reporters of any changes in rules or statutes.

27 CHAIRMAN BURTON: How about the Board?

28 MR. CRAMER: They have not taken on that, and

1 that's something, I think, that we need to do, and that's
2 something that I have a particular interest in getting the Board
3 to do.

4 CHAIRMAN BURTON: Doesn't take a constitutional
5 amendment. They just do it.

6 MR. CRAMER: Right. That's something we're
7 trying to move forward with at my suggestion.

8 We should be monitoring comment, for instance, on
9 proposed legislation. We rarely do that because we don't do a
10 very good job of following legislation that's introduced, and I
11 think there's information that you folks should get.

12 We need --

13 CHAIRMAN BURTON: I actually get more information
14 from Mr. Murphy than I really care to have, so I don't know
15 about getting any more.

16 [Laughter.]

17 MR. CRAMER: I'm not sure if that's a compliment
18 or what that is.

19 CHAIRMAN BURTON: It's a compliment to
20 Mr. Murphy.

21 MR. CRAMER: We ought to -- we need to -- but I
22 think it is important that -- what we have done is, the Board
23 has expanded their committees. And by doing that, they are able
24 to address in a better way, I think, because for instance, the
25 Education Committee consists of student representatives, lawyer
26 representatives, court reporter representatives, and they are
27 very active in reviewing things and making proposals. But those
28 proposals need to be pushed forward to the people that have the

1 authority, such as yourselves.

2 CHAIRMAN BURTON: We do have as part of the
3 record your statement of goals.

4 I've got just really one question.

5 There are a lot of proposals put together by the
6 Chief Justice in his capacity, I guess, as the Chair of the
7 Judicial Council, to try to do something with the budget cuts
8 they're going to have and still keep a court systems going.

9 One is dealing with the subject matter of
10 electronic recording, as opposed to manual recording.

11 I mean, has the Board ever looked at that to see
12 how that might work without adding to the unemployment roles
13 necessarily, or unnecessarily or what?

14 MR. CRAMER: No, I don't believe the Board has
15 specifically looked into that.

16 I think the attitude of the Board has been, to
17 the extent that the Legislature has decided that shorthand
18 reporting is the way that it should be done here in California,
19 that the Board's job then sort of moves forward from there in
20 terms of making sure that people are qualified and what have
21 you.

22 CHAIRMAN BURTON: I understand that, but I mean,
23 the Board deals with, if we can call it an industry of court
24 reporters, that there's an ongoing debate and, I think, yearly
25 legislation put in to deal with electronic recording.

26 It would seem to me in the interest of the
27 profession that the Board oversees, regulates, or whatever, they
28 may well try to get ahead of the sheriff and figure out, if such

1 things are to come about as either cost savings, efficiency, or
2 who knows what, what would be the best way to implement
3 something like that, at the same time, I think, preserving the
4 tremendous benefit of having live court reporters.

5 That's just a thought that I have.

6 Senator Johnson.

7 SENATOR JOHNSON: Thank you, Mr. Chairman.

8 Out of my high regard not only for the profession
9 of court reporters in general, but Ms. Mizak in particular, I
10 have no questions.

11 CHAIRMAN BURTON: Senator Romero.

12 SENATOR ROMERO: No questions.

13 CHAIRMAN BURTON: Senator Knight.

14 SENATOR KNIGHT: No questions.

15 CHAIRMAN BURTON: Senator Karnette.

16 SENATOR KARNETTE: No questions.

17 CHAIRMAN BURTON: Witnesses in support, briefly.

18 MS. BUNCH: Briefly, Chairman Burton, Members,
19 I'm here on behalf of the California Court Reporters Association
20 and its 1500 members.

21 My name is Sandra Bunch. I'm a free-lance court
22 reporter in Sacramento.

23 Mr. Cramer is the right choice and the best
24 choice for the CR Board. He has integrity, honesty, wisdom, and
25 expertise in all areas affecting the stakeholders to the Board,
26 which include licensees, students, official court reporters.

27 CHAIRMAN BURTON: You're in support?

28 MS. BUNCH: We're in support. Thank you.

1 MS. FENNER: My name is Yvonne Fenner, and I'm a
2 free-lance reporter in the Sacramento area. I'm also the Vice
3 President of the California Court Reporters Association.

4 I thank you for this opportunity to speak in
5 support of Mr. Cramer. He has immense knowledge. He's able to
6 approach a task from many different areas. He gets the job
7 done.

8 We are in support.

9 CHAIRMAN BURTON: Thank you.

10 Other witnesses in support.

11 MS. REDLICH: My name is Cheryl Redlich, and I'm
12 the President of the Sacramento Official Court Reporters. And
13 our 70 members are in support of Gary Cramer.

14 Thank you.

15 MR. DAVENPORT: I'm Allen Davenport, Director of
16 Government Relations for the Service Employees International
17 Union. Mr. Cramer is one of our members, one of our re-elected
18 members on many occasions as a leader in his local union.

19 He's also helpful on the Court Employee Labor
20 Management Task Force, in putting together the employment
21 relations work in the restructuring of the courts that, I think,
22 benefitted everybody in the state.

23 CHAIRMAN BURTON: Witnesses in opposition.

24 MS. BARDELLINI: Good afternoon, Senator and
25 Chair people, Committee Members. My name is Mary Bardellini,
26 and I'm President of the Deposition Reporters Association.

27 And for the benefit of the audience, I'd like the
28 record to reflect I was a Girl Scout for twelve years. Thank

1 you very much.

2 [Laughter.]

3 MS. BARDELLINI: I'm here today on behalf of the
4 hundreds of court reporters throughout the State of California
5 who oppose the nomination and confirmation of the Mr. Cramer.

6 I think it needs to be brought to this
7 Committee's attention that Mr. Cramer is very involved in court
8 reporting throughout the state, for which I respect. Mr. Cramer
9 is not only involved in the SEIU in Southern California, he is
10 paid, to my understanding, in excess of \$40,000 to represent the
11 Union's interest as it involves court reporters.

12 He is on the Board of Directors of the Los
13 Angeles Court Reporters Association. He's intimately involved
14 in the workings of the California Court Reporters Association,
15 and as you well know, works very closely with Mr. Murphy on
16 legislation. He is presently a member of the Reporters
17 Reporting for the Record Task Force involving the office of the
18 court and the Judicial Council.

19 And I personally am working with Gary at the
20 present time on a coalition, working with the Governor's
21 budgetary proposals.

22 With this background, I think it shows that there
23 is an inherent conflict of Mr. Cramer being on a consumer
24 board. His connections to court reporting runs so deep, Senator
25 Burton, that if in fact the Court Reporters Board were to
26 propose that ER, perhaps, is a better way, there is no way that
27 Mr. Cramer, who gets paid by the Union to represent the Union
28 positions of court reporters, can protect the consumers.

1 I had personal experience with Mr. Cramer in the
2 '80s for some seven or eight years. Worked on the California
3 Court Reporters Association with Mr. Cramer. And as bold as
4 this is, I have to share with you that this man takes no
5 hostages. He has no problems insulting women, belittling
6 people. He degrades people who do not agree with him.

7 The people that have come here today to express
8 their opinion in favor of Mr. Cramer are advocates of Mr. Cramer
9 because they agree with Mr. Cramer.

10 CHAIRMAN BURTON: That's usually how it works.

11 MS. BARDELLINI: Absolutely, and I'm here to let
12 you know that there are plenty of people in the State of
13 California that don't.

14 As a result of Mr. Cramer's untenuous position
15 over the years in the Association, there was a schism that
16 arose, and as a result of the inability to compromise, there are
17 now two other state associations that separated from the
18 California Court Reporters Association. This is a direct result
19 of the inability to compromise.

20 And I would suggest to you that anybody who is
21 going to serve on a state consumer board should have the
22 capacity to listen, and respect, and allow for there to be the
23 open exchange of ideas.

24 The two or three hundred people that wrote
25 letters and signed the petition were very passionate about the
26 fact that this man does not respect other people's time, and
27 ideas, and energies.

28 And I would suggest that with 2500 people being

1 involved in state associations in California, that approximately
2 half of them have sought other associations so that they can
3 perform and be court reporters. They do not want to be involved
4 where this man is involved.

5 In terms of going forward and working with the
6 California Court Reporters Board, it means interacting with
7 other associations. If Mr. Cramer is allowed to continue to
8 serve on this Board, it will curtail a lot of dialogue with a
9 lot of people and a lot of associations who feel that their
10 efforts would be wasted.

11 I would just like to say that in a state where
12 there's approximately 8,000 licensees, we believe that the
13 Governor could certainly appoint some other court reporter where
14 there would not be the conflict of interest, where there would
15 be the openness and the opportunity for people to share and
16 exchange ideas, that somebody else could be appointed who is not
17 a lightning rod for dissension.

18 Thank you for this opportunity. I appreciate it.

19 CHAIRMAN BURTON: Thank you very much, ma'am.

20 The Board is set up with two court reporters.
21 One is from the court, one is a free-lance. That's how that
22 works, with three public members.

23 MS. BARDELLINI: Correct.

24 CHAIRMAN BURTON: So, do they have some bylaws
25 that the other four votes don't count, and only Mr. Cramer's?

26 MS. BARDELLINI: The history that I have had with
27 Mr. Cramer in terms of his ability to accept and allow for
28 interchange of ideas makes it very intolerable to go and present

1 and work with him on these boards, so much so that after working
2 on a board with him for seven or eight years, there was a schism
3 that was created.

4 This is not a person who wants to entertain, in
5 our opinion, does not play well with others.

6 While I agree that it would be nice to have
7 somebody on the state licensing board who represents official
8 court reporters, and somebody in the court reporting community
9 who actually spends his time working as a court reporter, it's
10 my understanding that Mr. Cramer doesn't even report any more.
11 But the fact is, I do agree with the idea that there be a member
12 of the Court Reporters Board --

13 CHAIRMAN BURTON: Just not that one.

14 MS. BARDELLINI: Just not somebody, as I said,
15 who's a lightning rod for dissension.

16 And you folks work on committees, obviously, and
17 know what it's like to have somebody who shuts down discussions,
18 who's rude to people, who intimidates.

19 [Laughter.]

20 MS. BARDELLINI: I know you find that hard --

21 SENATOR JOHNSON: I can only imagine.

22 [Laughter.]

23 CHAIRMAN BURTON: I can't.

24 [Laughter.]

25 CHAIRMAN BURTON: I mean, if you're after my job,
26 too, say so.

27 [Laughter]

28 MS. BARDELLINI: Chairman Burton, I was going to

1 say, do not take this personal.

2 I think actually there's some similarities in
3 style, and thank God I'm not pursuing public service.

4 And as a court reporter, I'm expecting that my
5 license may be in jeopardy just by being here today. It's kind
6 of a bold move.

7 CHAIRMAN BURTON: I would doubt that. I didn't
8 take the insults of me personal. I thought it was just generic
9 to people who don't suffer fools gladly, and are rude, and
10 abusive, and single-minded.

11 MS. BARDELLINI: Well --

12 CHAIRMAN BURTON: With that, thank you.

13 Ma'am.

14 MS. CODEGA: After all that, this is going to be
15 anticlimatic.

16 My name is Debra Codega. I am a Deposition
17 Reporters Association, District 3 Representative.

18 I am opposed to Mr. Cramer's appointment.
19 Because of the controversy that surrounds him in the reporting
20 profession as it exists in California today, I feel that he
21 would not be an effective representative of our profession on
22 the Board. I am concerned that he will not be able to put aside
23 personal agendas to accomplish what's best for consumers and
24 reporters alike.

25 And there are many qualified, politically savvy,
26 outstanding and dedicated members of the reporting profession
27 who could sit on the Board and do an excellent job of
28 representing our profession, who would have the support of all

1 of the reporters in California.

2 Thank you very much.

3 CHAIRMAN BURTON: Thank you.

4 Would you like to respond?

5 MR. CRAMER: If you want me to.

6 CHAIRMAN BURTON: Yes, I think it would be nice.

7 MR. CRAMER: I get the -- it sounds very personal
8 to me. I hope it does to you, too.

9 CHAIRMAN BURTON: Well, it probably sounds
10 personal because they're up here opposing you for an
11 appointment, and they couldn't make it impersonal.

12 MR. CRAMER: Well, I guess what I'm saying is, I
13 think I am qualified.

14 And I would only suggest in terms of, I guess, my
15 personality is what's at issue.

16 In 2001, I was awarded the highest award the
17 National Court Reporters Association awards to anybody in the
18 United States, and they award it to one person a year. And
19 that's their Distinguished Service Award.

20 CHAIRMAN BURTON: Is that for genealogy?

21 MR. CRAMER: Well, my point is, they vet very
22 closely the people they give this award to, because they don't
23 want people who would conduct themselves in the way that was
24 just described.

25 CHAIRMAN BURTON: I guess the best thing to do,
26 without getting into who said, she said, I said, they said, is
27 that for better or for worse, you may want to take some of the
28 criticism under consideration and just try to be, you know, a

1 little more pleasant when you're telling people you think their
2 ideas are stupid.

3 Be a Lungren: You're wrong, and let me tell you
4 why.

5 MR. CRAMER: Well, and I appreciate that. I
6 have -- you know, I took that --

7 CHAIRMAN BURTON: You probably have enough years
8 not to change much, but I think that, you know, most of the
9 stuff seemed to go to your personality.

10 Any questions as a result of the --

11 SENATOR JOHNSON: Would you like to assure us
12 that you're going to do a better job?

13 MR. CRAMER: I would. Actually, I had the same
14 conversation with Mr. Yamaki from the Governor's office. And I
15 think if you check with my fellow Board members, you will find
16 that my behavior has been exemplary since my appointment.

17 CHAIRMAN BURTON: Call the roll.

18 SECRETARY WEBB: Senator Karnette. Senator
19 Knight.

20 SENATOR KNIGHT: Aye.

21 SECRETARY WEBB: Knight Aye. Senator Romero.

22 SENATOR ROMERO: Aye.

23 SECRETARY WEBB: Romero Aye. Senator Johnson.

24 SENATOR JOHNSON: Aye.

25 SECRETARY WEBB: Johnson Aye. Senator Burton.

26 CHAIRMAN BURTON: Aye.

27 SECRETARY WEBB: Burton Aye. Four to zero.

28 CHAIRMAN BURTON: Congratulations.

1 MR. CRAMER: Thank you all.

2 CHAIRMAN BURTON: Cathryn Rivera-Hernandez.

3 SENATOR ROMERO: Mr. President and Members, it's
4 my honor to introduce Cathryn Rivera. She's a remarkable woman
5 who I've known for several years. She is, of course, up for
6 confirmation today to the ALRB.

7 You probably know that she served as the
8 Governor's Chief Deputy Cabinet Secretary, particularly was
9 responsible for having liaisons with state agencies, departments
10 and boards, and especially the ALRB.

11 I've known her for sometime beforehand, though,
12 when she worked with Hernandad Mexicana Nacional in Los Angeles.
13 She was the Policy Director. I remember when I was first
14 elected to the State Assembly, the former founder-director, Burt
15 Corona, called me, said, "You've got a great person who's coming
16 up if you need chief of staff." I had already made a decision
17 at that time, but having had the ability to work with her over
18 the years, I can certainly see the vision that he had, and how
19 it's been translated to a new generation.

20 She's a really unique person. She comes from a
21 family of farmworkers. Her mother worked the fields, and all of
22 her aunts. She's dedicated. She's hard working. She's
23 passionate. But I think above all, she's fair. And I think
24 she's type of person that we want to have on this most important
25 board for California's farm industry and farmworkers.

26 So, I proudly present Cathryn Rivera-Hernandez.

27 MS. RIVERA-HERNANDEZ: Thank you.

28 Thank you, Chairman Burton and Members of the

1 Rules Committee. I appreciate the opportunity to appear before
2 you today.

3 When I was appointed to the Agricultural Labor
4 Relations Board in November of last year, I felt I was being
5 given the opportunity of a life time. For a person who had
6 taken every opportunity to engage in agricultural labor issues
7 while serving in the Governor's office, and as an attorney who
8 is committed to the fair enforcement of the law, there was no
9 better opportunity than to be entrusted with enforcing not only
10 one of the most unique labor laws in the nation, but within one
11 of the largest industries in the state.

12 California's agricultural industry leads the
13 nation in agricultural production, contributes over 27 billion
14 to our economy, and is powered by over 600,000 of California's
15 hardest working people. And it is the Agricultural Labor
16 Relations Act that protects these individuals.

17 The men and women that work in our fields deserve
18 to be treated fairly. They are entitled to adequate working
19 conditions, and they must have the right to choose whether they
20 want representation without interference.

21 I would also be fortunate to join a board that
22 has made extraordinary progress over the last four years. I
23 hope to make a meaningful contribution to these efforts, and to
24 help prepare the Board for the challenges ahead.

25 The most immediate effort was engaging in the
26 implementation of the mandatory mediation and conciliation
27 legislation passed last year. Being charged with implementing
28 what is the most significant change to agricultural labor

1 relations since the Act itself was passed, the Board and staff
2 worked diligently to draft and adopt regulations that were
3 within the law's intended purpose to provide a more effective
4 collective bargaining process. The Board sought and received
5 extensive input from numerous stakeholders, including the
6 Board's Ad Hoc Advisory Committee, which includes
7 representatives from both labor and management, and a
8 representative group of arbitrators.

9 I believe the regulations provide a fair
10 procedure that meets the statutory requirements and are within
11 the spirit with which the law was passed.

12 In addition to seeing through the implementation
13 of this bill and handling our caseload, it will be critical in
14 the near future for the Board to continue to identify
15 opportunities for improvement without additional resources. The
16 inclusion of the ALRB within the Labor and Workforce Development
17 Agency will be instrumental in this goal. I am currently
18 serving on its subcommittee with other Labor Department staff to
19 find ways to maximize resources and more effectively enforce our
20 respective labor laws. The Board is also using existing agency
21 resources and expertise to improve our outreach efforts.

22 In the long term, I want to work with the Board
23 to achieve quick and full compliance with the Board's decisions,
24 since the most fair and equitable decisions are meaningless
25 without it. And also to increasingly inform individuals about
26 their rights and responsibilities under the Act, since as one
27 worker stated, "Not knowing my rights is the same as not having
28 them."

1 In conclusion, if I am confirmed, I will work to
2 achieve the goals of the Legislature when it passed the
3 Agricultural Labor Relations Act. That is, that farm laborers,
4 farmers, and all the people of California will be served by the
5 Act. I will accomplish this by interpreting the law fairly,
6 issuing timely decisions, and working to ensure those decisions
7 are enforced.

8 I would be honored to carry out this charge, and
9 respectfully request your confirmation of my appointment.

10 Thank you.

11 CHAIRMAN BURTON: Thank you.

12 Do you have any idea of the number of backlog
13 cases?

14 MS. RIVERA-HERNANDEZ: Yes.

15 CHAIRMAN BURTON: Currently?

16 MS. RIVERA-HERNANDEZ: There are currently 23
17 cases pending in the General Counsel's office for compliance.
18 Nine of those are going on track within the normal process.

19 There are fourteen that are older cases.
20 Largely, they are either out of business, or have gone bankrupt,
21 but they're kept open until all efforts to collect have been
22 exhausted.

23 There are two cases that are not back pay, that
24 are actually make whole-cases, where attempts to find a
25 comparable contract have taken way longer than it should. And
26 those cases should have been out long ago.

27 CHAIRMAN BURTON: You keep open cases if, for
28 whatever reason, the business went out of business. Why is

1 that? Just something you have to do until it's determined?

2 MS. RIVERA-HERNANDEZ: There's a pretty high
3 standard that the Board has historically set for closing cases,
4 and that is that the region has to prove that there are
5 absolutely no assets available, and that there is no one that
6 can be held liable. So, they go through the process of debtor's
7 exams and have actually hired people --

8 CHAIRMAN BURTON: What's oldest case in years?

9 MS. RIVERA-HERNANDEZ: Ten.

10 CHAIRMAN BURTON: I mean, after ten years --

11 MS. RIVERA-HERNANDEZ: In that case, it was --
12 it's a make-whole case, and so the problem is finding -- is not
13 necessarily finding the person.

14 CHAIRMAN BURTON: Let's assume they're kind of
15 dead cases, or somebody going out of business case, does it cost
16 a lot of money to keep them open or what?

17 MS. RIVERA-HERNANDEZ: I don't think it's a
18 matter of the amount of resources so much as the matter of time
19 that it takes. So, we try -- again, once that standard is met,
20 they do send cases to the Board for closure, or to the General
21 Counsel, I should say.

22 CHAIRMAN BURTON: Senator Johnson.

23 SENATOR JOHNSON: Thank you, Mr. Chairman.

24 I had a question about Hernandad Mexicana
25 Nacional and your work there.

26 Is this the organization that was involved in a
27 good deal of controversy about citizenship classes and English
28 classes that were funded through the State Department of

1 Education, and the classes apparently weren't held? Is this the
2 same organization?

3 MS. RIVERA-HERNANDEZ: Yes.

4 SENATOR JOHNSON: What can you tell us about
5 that? Did that occur during the timeframe that you were with
6 them?

7 MS. RIVERA-HERNANDEZ: Those issues arose as I
8 was leaving. They were going through financial difficulties,
9 and so that was when I left the organization.

10 I don't know a lot about the claims they had.
11 Although I am an attorney, I didn't serve as their counsel.
12 They had other attorneys handling those, so I'm not familiar
13 with them.

14 SENATOR JOHNSON: So you weren't involved in
15 those?

16 MS. RIVERA-HERNANDEZ: Oh, no, no.

17 SENATOR JOHNSON: Thank you.

18 Senator Romero.

19 SENATOR ROMERO: No questions.

20 SENATOR JOHNSON: Senator Karnette.

21 SENATOR KARNETTE: I'm concerned, there's no
22 question here about it, but I want to be sure that the
23 farmworkers understand their relationship to management.

24 But who actually gives them that information? Is
25 it the supervisor or the person who's managing the -- oftentimes
26 they don't speak English.

27 How do you know they get the right information?

28 MS. RIVERA-HERNANDEZ: Well, I think we, the

1 Board, tries to do that in a number of ways, and that is, one,
2 the distribution of brochures and actually going out and
3 providing them to the farmworkers, as well as the participation
4 on radios. They often carry the radios with them, and so we
5 know that is an effective way to get information out there about
6 their rights. And if they have any questions, giving them the
7 information about the Board and who they can contact.

8 SENATOR KARNETTE: I'm always concerned about
9 that middle person, that they're not taking advantage, no matter
10 who that might be.

11 You have people that come in, that check on that,
12 or do you confer with others, like other people that would be
13 around? More than one person, in other words.

14 MS. RIVERA-HERNANDEZ: We don't go -- because
15 we're -- we don't go out and do reviews, or raids, like similar
16 to some other labor departments.

17 So, they are -- they mainly learn their rights
18 from discussions among the workers. And then you also have the
19 unions out there also, talking to them.

20 But it's a matter of -- and there's always room
21 for improvement, and that is making sure that the information is
22 available, and that we are out there in their region.

23 SENATOR KARNETTE: Is the supervisor an union
24 member or not?

25 MS. RIVERA-HERNANDEZ: You know, I don't -- I'm
26 not positive. I'm not sure.

27 SENATOR KARNETTE: Because that would create a
28 little conflict I would think.

1 MS. RIVERA-HERNANDEZ: Right, right. Yeah, I
2 don't know for sure. It's probably on a case-by-case
3 basis.

4 SENATOR KARNETTE: Thank you.

5 SENATOR JOHNSON: Senator Knight.

6 SENATOR KNIGHT: No questions.

7 SENATOR JOHNSON: Witnesses in support?
8 Witnesses in opposition?

9 Did you have any family members you wanted to
10 introduce?

11 MS. RIVERA-HERNANDEZ: I have my husband, Ignacio
12 Hernandez, and my two fellow Board members here.

13 SENATOR JOHNSON: What's the pleasure of the
14 Committee?

15 SENATOR KARNETTE: Move the nomination.

16 SENATOR JOHNSON: Call the roll.

17 SECRETARY WEBB: Senator Karnette.

18 SENATOR KARNETTE: Aye.

19 SECRETARY WEBB: Karnette Aye. Senator Knight.

20 SENATOR KNIGHT: Aye.

21 SECRETARY WEBB: Knight Aye. Senator Romero.

22 SENATOR ROMERO: Aye.

23 SECRETARY WEBB: Romero Aye. Senator Johnson.

24 SENATOR JOHNSON: Aye.

25 SECRETARY WEBB: Johnson Aye. Senator Burton.

26 CHAIRMAN BURTON: Aye.

27 SECRETARY WEBB: Burton Aye. Five to zero.

28 CHAIRMAN BURTON: Burt Corona, is he alive or

1 dead?

2 MS. RIVERA-HERNANDEZ: He passed away.

3 CHAIRMAN BURTON: He was what, 89?

4 MS. RIVERA-HERNANDEZ: He was old. He was
5 working up until his last days.

6 SENATOR ROMERO: I'm always raising questions of
7 diversity here in Rules.

8 I've got to say that in looking at the
9 composition of the ALRB, this is actually a majority female
10 board. A lot more boards could look like that.

11 [Thereupon this portion of the
12 Senate Rules Committee hearing
13 was terminated at approximately.

14 2:07 P.M.]

15 --ooOoo--
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of March, 2003.


EVELYN J. MIZAK
Shorthand Reporter

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1:37 P.M.

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Evelyn J. Mizak
Shorthand Reporter

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SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

MAURICE JOHANNESSEN, Secretary
Veterans Affairs

SENATOR DEBRA BOWEN

EZELL WARE, JR., Brigadier General
Assistant Adjutant General
California National Guard

LARRY LATTMAN, Chairman
Allied Council, Yountville Home
Member, California Veterans Board

JOHN CLECKNER, Major (Ret.)
Shasta County Veterans Council

CHARLES PARNELL, State Commander
American Legion

1 JOHN LOWE, State Adjutant
Veterans of Foreign Wars

2 MIKE GREENE, Secretary
3 Board of Directors
4 Disabled Veterans Business Enterprise

5 JOHN CANFIELD, Past Legislative Director
Veterans of Foreign Wars, Dept. of California

6 TOM SWANN
7 Blinded and Gay/Lesbian Veterans

8 DON HARPER, President
9 California Association of Veteran Service Agencies

10 WILLIAM REARDON
California Association of County Veterans Service Officers

11 ALLEN AMARO
12 DVBE Network
13 Sacramento County and Vicinity

14 DON MATTSON, Brigadier General
Director, California Military Museum

15 BENTON HOM, Colonel (Ret.)
16 U.S. Army
17 VFW, American Legion, State Military Museum, and
18 Asian American Groups

19 EDWARD E. GORRE, Lt. Colonel
Past President
20 TROA/MOAA

21 IVANN E. GREENE, Lt. Colonel (Ret.)
California Department of Veterans Affairs

22 DELPHINE METCALF-FOSTER, Junior Vice Commander
23 Disabled American Veterans

24 PETE CONATY
25 California State Commanders Veterans Council

26 RON MARKARIAN, President
Central California Chapter
27 Association of the U.S. Army
28

1 GUS A. KANELOS

2 Unaffiliated Veterans Advocate Coalition

3 JOHN REECE

4 AMVETS

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: File item number two, Governor's appointees, Maurice Johannessen, Secretary, Veterans Affairs.

I would like to ask the witnesses today that have prepared statements to submit them. We will make them part of the record, and briefly state your support or opposition. But those with prepared statements, submit them for the record.

Then the way it works, for those that don't know, we call for support first, then we call for opposition. So briefly, like, "We are in support of," and give a few brief statements; if you're in opposition, "Opposition of," and a brief statement.

Senator Johannessen.

SENATOR JOHANNESSEN: Thank you, Mr. Chairman and Members.

The process in which I will use to go through this may be a little bit verbose, but I'm hoping that you'll bear with me.

First, I'd like to point out that we're only about a little over three hours now there's a deadline for the war in Iraq. And I think it's a good idea to reflect on what we owe the veterans and what they have done for us in the past.

And also I would like to point out that only having been the Secretary of the V.A. for less than 90 days, I'm hoping that we can deal with those things that are present and perhaps looking a little bit into the future. I will try to

1 take you to not only where we are, but also the potential of
2 where we are going.

3 I think it is important that we -- by the way,
4 the Members of this Committee, I'm pretty sure, are aware of all
5 of this, but it maybe informative for those people who are here.
6 There has been a tremendous outpouring of support for this
7 nomination, as well as the letters and information that have
8 been received.

9 I'm very, very grateful to those comrades behind
10 me here who have taken the time to show up. I hope they
11 understand that the time is short, and they use as short a
12 presentation as they possibly can.

13 So with that, as you also know, I chaired the
14 Veterans Committee for the last six years, and Colonel Knight,
15 of course, was a member of that committee as well, so I know all
16 of you are pretty well familiar with it.

17 With that, Mr. Chairman and Members, I'd like to
18 go over just a little bit of sort of a snapshot of what we're
19 doing today.

20 The California Department of Veterans Affairs is
21 actually a big operation, probably bigger -- in fact, it's
22 really bigger than I realized before I took the job. We have a
23 lot of people there.

24 We have budget of \$380 million; Farm and Homes is
25 about 220; and the Veterans Homes, of which we have three of
26 them, basically breaks down to 68.3 million for Yountville; and
27 Barstow, 21.4; and Chula Vista, which is our latest one, 20.1.

28 We're doing construction at the rate of about \$44

1 million, and the Veterans Homes we're doing 37.2 million, and we
2 also have a cemetery of 6.6 million which is on its way of being
3 built right now as we speak. The Veterans Services is about \$5
4 million.

5 The Farm and Home funding program is, the bond
6 itself is about 220; the Veterans Home bond itself is 3 million;
7 General Fund, 68 million; the federal funds that we get back is
8 32; and reimbursement and other is 59 million.

9 I don't think I want to go through all of this
10 because it may be too much information here that you probably
11 won't need.

12 But in the Veteran Home operations, which is, of
13 course, one of the most serious ones that we're dealing with, we
14 have the Barstow Skilled Nursing Facility Licensing, Yountville
15 Hospital Operations and Collections, Chula Vista Skilled Nursing
16 Facility Occupancy; Veterans Homes construction; cemetery
17 construction; Farm and Home loan eligibility; and Veterans
18 Services.

19 In the staffing and organization, we have common
20 administrative policies, statutory and regulatory compliances,
21 organize by business lines, written regulations of policies and
22 procedures. These are some of the things being worked on that
23 we're doing right now.

24 And I want to break a little bit back of this
25 one, because I think it's important that we get into some of
26 the, perhaps, the most things which you probably would be
27 interested in, which is how the homes are currently being
28 operated; the number of staff that we have; and what has been

1 happening in the past; and what we're trying to change.

2 The problems that we have had with the veterans
3 homes, and you hear a lot about problems in the veterans homes,
4 which isn't actually true. We have two veterans homes that
5 don't seem to have any problem, but we have one that is Barstow,
6 which causes us more than a little headache.

7 In order to solve that problem, the Governor has
8 approved appointments of Deborah Kania, she's an RN and a Deputy
9 Secretary of the Home Division; George Andries is the current
10 Deputy Secretary, Home Division, will become Deputy Secretary,
11 Planning and Construction to oversee the development of five new
12 veterans homes.

13 And by the way, we are in the process right now
14 of having or building five new veterans homes on a scale which
15 even the federal government has never done before for the
16 veterans. So, it is a big, big project going on.

17 We also have approved a new Nursing Home
18 Administrator in Chula Vista, named Ann Murray. And we have a
19 new Licensed Nursing Home Administrator in Barstow named Bruce
20 Janssen; and a Licensed Nurse Administrator, which is the first
21 time we've had that, by the way, Louise Koff which will be in
22 the Yountville area.

23 These are key components in order to be able to
24 professionalize and go in the direction which we feel we have to
25 go, which is more in the long-term care than in the model which,
26 up to now, we have used. The reasons for that is, we think that
27 would be much more appropriate for what we're trying to do and
28 the help we're trying to give the veterans.

1 Barstow capacity, we have 400 capacity in
2 Barstow: Domiciliary, we have about 220; Residential Care,
3 none; Intermediate Care, 60; and Skilled Nursing, 120. The
4 census we have as of 3/18, which would be yesterday, we had in
5 the Domiciliary 111. We have in Intermediate Care 46, and
6 Skilled Nursing Facility, 94.

7 Let's deal with Barstow first. As you well know,
8 and it has been widely publicized, that we've got trouble, yes.
9 We have had a lot of trouble in Barstow. Many reasons for it.
10 One of the major reasons is that it is so far out of the main
11 track that we cannot keep employees, and it was just built in
12 the wrong place at the wrong time. But we are trying to correct
13 that.

14 You've heard, because I know a lot of news people
15 have been trying to second guess what's going to happen in
16 Barstow, and I will tell you we are still in a little bit of
17 flux, but it seems to me that the direction that we probably
18 will go is that skilled nursing facilities will be discontinued
19 in Barstow. Those people will be transferred to either Chula
20 Vista or to Yountville. We are laying plans for all the
21 alternatives so that the trauma will be as negligible as
22 possible.

23 But the decision as to how many we're going to
24 transfer is still to be talked about. We are waiting for the
25 permission from the Health Department, basically, the Department
26 of Health, because they have to approve the plan that we have
27 laid out for them. But that is one opportunity.

28 The other thing we do know for the safety and for

1 the benefit of our veterans, we no longer can operate that
2 facility the way that it has been operated in the past, and
3 something needed to be done.

4 Yountville has a capacity of 1264. There are
5 currently as of now 1,074 residents there. We have Domiciliary,
6 635 right now; Residential Care for Elderly, we have 88;
7 Intermediate Care, 131; and Skilled Nursing Facilities has 213.
8 And we also have in Yountville an Acute Care Facility which
9 right now is 7; we have a capacity of 26. Right now we have 7.

10 In talking about Yountville, it's a beautiful
11 facility. We will never build any facilities like that again.
12 It contains a hospital, which, obviously, we cannot afford to
13 build any place else, so there's a lot of things we're going to
14 have deal with in Yountville.

15 However, Yountville is on a fast track for
16 upgrading. There is about \$50-60 million coming out that are
17 going to be used in Yountville to upgrade that, mainly because
18 we need upgrade in various areas, but probably the most
19 important one is to make proper arrangement for dementia,
20 Alzheimers, and this type of thing.

21 Chula Vista, we have a capacity of 400. At the
22 moment we have a Domiciliary, we have 150; Residential Care for
23 the Elderly, 51; Intermediate Care, we have not licensed that
24 yet so we can't do that. In the Skilled Nursing we have 61.

25 I also want to perhaps inform you that we have
26 just received the certification for opening the next pod, which
27 is a 60-bed, which hinges, quite frankly, to make it staffed, to
28 have it staffed. Once we get it staffed, it will be in

1 operation. Then after that, we have another pod of 60 that can
2 go in, but here again, there are some things we have to do that
3 is doable, but we have some rework that has to be done, such as
4 eating facilities and this kind of a thing.

5 Now, the thing which you're probably going to ask
6 is, what about the finances? How much money are you going to
7 come and beg for this year?

8 Well, sitting on this side of the table, I'll beg
9 for it. We have, Yountville, we have probably, as you recall,
10 probably 1999, I think you'll recall, and 2000 we had an unpaid
11 balance of about \$2 million we had borrowed; 2000-2001, we paid
12 in full; 2001-2004, there was an unpaid balance of about 4
13 million, and that's going to go with us. We're going to have to
14 ask for some money on this for sure.

15 Chula Vista had no requirement for a loan.

16 In Barstow, we require about one-and-a-half
17 million for cash flow purposes.

18 Bear in mind that some of these homes, that
19 reason that we have this cash flow problem is that they're not
20 full. These homes are not full.

21 And in Barstow, we have 1.5 million for cash flow
22 purposes, and cash flow deficiency about 742,000. We will go,
23 obviously come ask for that.

24 Yountville requires a loan of 8.7 million for
25 cash flow purposes, and a cash deficiency of 4.4 million. This
26 is mainly due to reimbursement shortfalls.

27 And also, I'd like to point out that in the
28 budget itself there was sort of an overstatement. There was

1 something mentioned there about \$12 million. I think the
2 reality is that on an ongoing basis, we're probably looking at
3 somewhere around 6.6 million, which basically mirrors the amount
4 of money for reimbursement.

5 But I just want you to know, we're trying very
6 hard every place we can to do things and find things that we can
7 get reimbursements from the Federal VA, and we have been very
8 neglectful in doing that, quite frankly, for sometime, but we
9 will try to correct that.

10 So with that, let me go back to what has been
11 happening right now as we speak, what has been done in the last
12 let's say 90 days.

13 We have made changes within the structure of the
14 department more in line with what you would find in the private
15 industry. And in order to do that, we have to change some
16 people around based on the qualification they have, but also on
17 the interest that they have, and we have a tremendous amount of
18 expertise. So, we are in the process of changing some of those
19 around.

20 We have basically separated in three different
21 areas in order to add to the accountability and
22 responsibilities. We have the one division which basically
23 deals with the homes, the maintenance these homes, the medical
24 part of the homes, and so forth. So that that particular
25 individual, which happens to be Tom Kraus, is going to be
26 concentrating on this because this is where our problems have
27 been. Not to belittle the fact we've got problems in Farm and
28 Home, but that is secondary right now to getting the homes

1 straightened away, because there we have serious problems
2 because now we're talking about lives, veterans' lives.

3 The second portion of this is an administrative
4 portion, which basically deals with the day-to-day operations in
5 administration.

6 Then we have the third operation, which deals
7 with the construction, renovations, and so forth. And we are
8 gearing up on that one. We are gear up very, very fast right
9 now. In fact, we are to the point now where we -- I believe we
10 just about have all the lands and everything settled down on. We
11 have architects being inquired at the moment, and so forth. So,
12 that one's going to move very quickly. And we are asking the
13 administration for additional manpower to do just that, because
14 this is one big project to get going.

15 But it is all in the amounts that is allowed in
16 the two bonds issues. One, which was the original one, I think,
17 that Colonel Knight, I think it was SB 16, I think, yeah. And
18 that one, basically it was a \$50 million bond. There was
19 another bond which I carried which was the \$62 million bond.

20 The first bond issue was basically directed
21 towards the building of West L.A., Saticoy and Lancaster. The
22 second bond will be used for Redding and Fresno, and anything
23 else that the other units will have to need or want. So, we
24 have that funding in place.

25 And at this particular point, the federal
26 government has basically said, "Go for it," and we are currently
27 working with the state staff in order to get the clearance of
28 funding. So, we are rolling on that.

1 Any questions?

2 CHAIRMAN BURTON: Senator Romero.

3 SENATOR ROMERO: Senator, as you know, I'm from
4 Barstow, and of course I have visited the home, toured the
5 home. It's very important to me.

6 I appreciate the thought that you have given, the
7 work that you've given to this issue of addressing it, and I
8 look forward to seeing what recommendations you have as you go
9 forward.

10 I would like to report to the Committee that I
11 did meet -- in fact, Senator Johannessen did appear -- before
12 Latino Caucus yesterday, and the Latino Caucus members have
13 asked me to convey to the Committee our very strong support for
14 the confirmation of Senator Johannessen.

15 I have no questions.

16 CHAIRMAN BURTON: Senator Knight.

17 SENATOR KNIGHT: Thank you, Mr. Chairman.

18 There's a number of questions I have, Senator
19 Johannessen. You know, as a result of recent legislation and
20 work, we have established three new veterans homes as priorities
21 for the construction, which will be the first ones to go: West
22 L.A., Lancaster, and Saticoy.

23 The Lancaster and Saticoy homes have been reduced
24 from 400 down to 60. If you look at the representative veterans
25 supporting those homes, you have, say, 300,000 representing
26 Lancaster; 246 Fresno; and 76 representing Redding.

27 The original home in Lancaster were 400 beds.
28 How do we justify the size based on the appropriate veterans

1 supporting those homes?

2 SENATOR JOHANNESSEN: Colonel, it's a combination
3 of several factors. Perhaps the most important one is the
4 federal input.

5 As you know, I hope you know, that the -- our
6 federal counterpart, which is 65 percent of the funding,
7 basically told us, "Never ever again will we approve of a home
8 that far away from people that we need," not only the people
9 that you serve, but also where you can get proper care, which
10 means you've got to be able to hire people and have a certain
11 amount of people available.

12 The plan, which I understand is the working plan
13 at this point, as you recall as part of the bill that I put
14 through for the purposes of these homes, I wanted to ensure that
15 we had proper facilities for dementia and Alzheimers. The
16 decision was made that the West L.A. Home would be the main home
17 for these purposes. Not that each home shouldn't have, perhaps,
18 some facilities for that, but that would be the main home,
19 mainly because it's next to the Veterans Hospital, but also
20 because they have the potential, and in fact they will be
21 working on it as a research facility for dementia and
22 Alzheimers.

23 And so then, the question then was, where do you
24 place these homes, and to what extent, numbers, do you have beds
25 in these homes, and how do you deal with the main institution?
26 That, of course, would be West L.A.

27 The decision then was made that these homes would
28 be feeder homes into L.A. because they are close enough to L.A.

1 that we can do the necessary transfers if we have to. So, that
2 was basically some of the decision we got into.

3 Also, I think it's a good time to point out that
4 we have lacked in the past the skills necessary to deal not only
5 with dementia and Alzheimers, but also geriatric and long-term
6 care. The people who are my age and younger and older, they
7 need a lot of support, and they need a lot of long-term care.
8 They are not necessarily --

9 SENATOR KNIGHT: I understand all that, Senator.

10 Let me ask then, how do you propose building 400
11 beds in Fresno and 200 beds in Redding? What's the criteria, or
12 do you have a criteria, for establishing the size of a veterans
13 home?

14 SENATOR JOHANNESSEN: Yes, there is a specific
15 criteria that was used by the federal government on how they
16 allot these, yes, it's true. I don't have the exact criteria,
17 but it is a pretty good sized book, Colonel. I will certainly
18 be able get that to you.

19 SENATOR KNIGHT: Thank you.

20 As I remember, and I've been working these issues
21 for a number of years, but there was never any mention from the
22 federal government to the effect that Lancaster did not satisfy
23 the requirements for the federal government. That was never a
24 problem, never an issue, and the project was approved.

25 So anyway, how is the construction of the new
26 veterans homes proceeding?

27 SENATOR JOHANNESSEN: How are they proceeding?
28 Well, having some experience in construction and development,

1 the first step that we have to do now, and which is just about
2 tied down, especially I think Lancaster. In fact, I think,
3 Lancaster in fact was the first one, I think, to get all the
4 paperwork together, is that you have to tie down the land. The
5 land has to be donated. The old infrastructure has to be
6 replaced through the property.

7 SENATOR KNIGHT: Do all three homes have to have
8 that completed before we can start construction on one home?

9 SENATOR JOHANNESSEN: No. What we are doing
10 right now, okay. The easiest way to explain this is that we
11 have one home, which is a multi-story, somewhat unusual home. I
12 mean, it's a big facility. It may be 500-600 beds, we're not
13 sure. It depends on how the finances work out.

14 That has to have engineering and architects that
15 are specifically in that area. And we have some of the best
16 brains, in fact, they're some of the highly qualified people
17 from East L.A. and these places that are helping us, putting
18 this together. That one is, one architectural firm will handle
19 that.

20 The next step is an architectural firm that will
21 handle which will be mostly the campus. I don't like to use a
22 campus style, but a campus style, single story, kind of homes
23 that we associate with probably Yountville, I think, would be
24 the latest one that was just recently opened.

25 SENATOR KNIGHT: Chula Vista you mean?

26 SENATOR JOHANNESSEN: Excuse me, Chula Vista.
27 I'm sorry, Yountville is 118 years old, I think. Forgive me.

28 So, it makes sense that even though we be

1 building, and the emphasis at this particular point is with West
2 L.A., Saticoy, and Lancaster, but the footprint itself in the
3 way we design will be also applicable to Fresno and Redding.

4 Neither Fresno or Redding, Lancaster or Saticoy
5 will be left out. They are -- the infrastructure's going to
6 have to be for full workout, so we can increase later if we need
7 it.

8 So my feeling is, and I have explained that to
9 you, I think, before, Colonel, that there is no way that I see
10 with the West L.A. facility will in any way, shape, or form be
11 completed before Lancaster. I suspect, if we are on timeline,
12 and right now I'm good at pushing timelines, and right now I
13 think that it'll be ready for occupancy and your inspection by
14 the summer of 2006. And that will be the first one to open, I'm
15 sure.

16 CHAIRMAN BURTON: Will you still with us in 2006,
17 Colonel?

18 [Laughter.]

19 SENATOR KNIGHT: You know, you're in second one
20 that has made that comment today, and I'm going to be here past
21 '06.

22 [Laughter.]

23 SENATOR KNIGHT: Building in Yountville and the
24 other homes has lagged considerably behind the collections. The
25 process by which we bill and collect, that's been a problem for
26 many, many years. In fact, the billing at Yountville has been
27 going down hill, or the collection, ever since '98. It took a
28 plummet, you know, but budgeted, was pretty constant; in fact,

1 increased a little bit. But the collections went down
2 considerably.

3 What are we doing about making sure that we bill
4 and collect the appropriate funding from Medi-Cal and Medicare,
5 from the various member fees, et cetera? We don't do a very
6 good job at that.

7 SENATOR JOHANNESSEN: You're right.

8 SENATOR KNIGHT: So, what are we doing?

9 SENATOR JOHANNESSEN: Okay, the first problem
10 that we have is that we have a computerized system that just
11 don't work.

12 SENATOR KNIGHT: When did we buy that system?

13 SENATOR JOHANNESSEN: I have no idea, but it must
14 be quite a few years ago. I'm not sure when that system was
15 installed.

16 SENATOR KNIGHT: In 1999. It's a rather late
17 system.

18 SENATOR JOHANNESSEN: It's too complicated, and
19 it is not user friendly. It has caused nothing but problems.
20 As a matter of fact, the first thing I noticed when I took a
21 look at the financial health of the department was that we were
22 paying more in consultant fees to keep it running every year
23 than we can buy a new system. So obviously, we are looking into
24 that very carefully.

25 And I'm not talking about a few hundred thousand.
26 I'm talking about millions over the years.

27 We, in order to solve that problem, we have had
28 the Finance Department coming in to do audits. And we have

1 discovered several things. One is that a lot of the billing
2 fell behind and may not be collectable anymore. And that, for
3 one thing, there has been no keying, if you will, on the
4 computers for basis of drugs, which should yield us another 20
5 percent of the billing, you know, for drugs. That was never
6 charged for.

7 So, yes, we have problems.

8 SENATOR KNIGHT: Do we still contract with HMS to
9 collect and train --

10 SENATOR JOHANNESSEN: We are -- right now I have
11 a group together of highly professionally qualified people who
12 are working over this to see what kind of changes we can make.

13 But as long as this has been -- and this,
14 Colonel, is really something that drives me up a tree, quite
15 frankly, because a single source, a system designed by single
16 sources, so you have to go to that source to get things done.
17 Which means there's tremendous -- hundreds of thousands of
18 dollars worth of consulting fees to go along with this as well.

19 SENATOR KNIGHT: Do we still have a contract with
20 HMS?

21 SENATOR JOHANNESSEN: Yes.

22 The next system that will be put in place not
23 only will be user friendly, but it will also be off-the-shelf
24 kind of a system. It will not be this kind of a thing that
25 we're dealing with right now.

26 SENATOR KNIGHT: My understanding is that the
27 system is not being fully utilized to the capacity for which it
28 was designed or really purchased. And HMS should be providing

1 that information. They're on contract to do that.

2 SENATOR JOHANNESSEN: Well, I know they have
3 people here from New York and a few other things.

4 Rest assured, Colonel, this is not going to stand
5 in the way that this is done right now. The system itself, I
6 have been told that the system itself may be usable in Kaiser
7 Permanente, but it is not usable in the situation that we are
8 dealing with. It may be way beyond what we ought to be using.

9 But we will take care of that one. That is on
10 the list, and I would hope that in the next few weeks, we should
11 be able to come up, at least on a trial basis in one of our
12 homes, a system that will be working just fine. But it'll be
13 done on the trial basis, and we will not install it until we
14 know everything is right.

15 SENATOR KNIGHT: The system you have was bought
16 in '99 and 2000, and it had software updates last year. So,
17 somebody must have known how to operate it, or was friendly with
18 it, because they were able to request the updates.

19 SENATOR JOHANNESSEN: Absolutely, I understand.

20 And the only thing I can tell you is that I was
21 very adamant about making changes in that department and the way
22 we're doing things, the only thing I can tell you at the moment.
23 But it will be taken care of, Colonel, I guarantee you that.

24 SENATOR KNIGHT: The Governor has proposed to
25 raise the fees for the members.

26 What do you think about that?

27 SENATOR JOHANNESSEN: Yeah. If you recall, the
28 fees, it's not for all of it, but the fees basically was 55

1 percent, and that Senator Chesbro -- and we put together a bill
2 which actually took it down to 47-and-a-half percent, which is
3 still, in my mind, too high, ought not to be.

4 But if you're asking me what I feel about it, my
5 feeling is that I understand the financial situation of
6 Yountville and the homes. I understand we need the funding.

7 But I hope that the administration will give me
8 the opportunity to find savings in other areas, because this
9 should not be.

10 SENATOR KNIGHT: You're saying you don't support
11 that?

12 SENATOR JOHANNESSEN: Right, yes.

13 [Applause.]

14 SENATOR KNIGHT: I would go along with that, and
15 I certainly don't support raising the fees, in particular if you
16 can't collect them and you can't keep track of them.

17 SENATOR JOHANNESSEN: There is a lot of things
18 that's happening. It's a strange kind of laws that we're
19 dealing with, Colonel, such that you are going to have to get
20 rid of your funding before you can do things. I mean, it's
21 strange, and I understand that.

22 SENATOR KNIGHT: We have a requirement for DVBES,
23 Disabled Businesses, for 3 percent contracting.

24 This last year it looks like they did 4.2
25 percent, but I have words that indicate that there was some
26 shenanigans pulled in terms of the identification of who those
27 4.2 percent were, that they were using bogus or ZIP codes from
28 out of state.

1 SENATOR JOHANNESSEN: Colonel, I met with a lot
2 of groups regarding that issue. And I don't know if you recall,
3 I think it was AB 669, and also under AB 409, that set goals of
4 not less than 6 percent for the veterans, the Small Business and
5 Disabled Veterans Business Enterprises, I think it is.

6 I'm not very good at this A, B, C that's going
7 on. I've got to read up what it means.

8 But what has happened is, first of all, I want
9 you to know that as far as our administration is concerned, we
10 are running right now about 23.42 percent, so we are certainly
11 in compliance by far.

12 The problem is that those people who need,
13 perhaps, to get a little kick-starting, is, for example -- I'm
14 going to get hit by this one -- General Services, which does
15 most of the construction and all this stuff, they need to do
16 something. The Forestry Service needs to do something, update
17 perhaps, give themselves a little bit more of an interest in it.

18 I have talked to the General Service. I've
19 talked to these people, and the problem seems to be that the
20 certifications, sometimes the certifications are fraudulently
21 made. And they may hire somebody just in name only in order to
22 become eligible.

23 So, how many people do you have to investigate
24 this? We had, as you recall, we had an IG, Inspector General,
25 and we looked into some of that. And yes, there is some
26 fraudulent things going on, but our department, of all the
27 thousands of contractors out there, we have no one that can go
28 out to basically investigate and enforce this issue. So, it may

1 be that something we're going to have find a way to do that.

2 But yes, it is fraud out there. Some it's
3 substantial, yes. Are they misusing the system? Yes.

4 And I watched it, touched it, felt it, and I know
5 about it. I just don't know how to correct it without a lot of
6 manpower.

7 SENATOR KNIGHT: You have a lot of complaints
8 from the veterans homes. Do you know how many you have a month?

9 SENATOR JOHANNESSEN: No, I don't know how many
10 we have a month, but we have too many.

11 SENATOR KNIGHT: You have about a thousand a
12 month.

13 SENATOR JOHANNESSEN: Well, I don't think we have
14 a thousand.

15 SENATOR KNIGHT: Do you have problems with people
16 coming me to talk about problems with the veterans homes? Do
17 you have any problems with anybody coming to the Legislators,
18 talking about the veterans homes?

19 SENATOR JOHANNESSEN: No, no, no. I mean, that's
20 a free speech issue. My gosh, you have people that come --

21 SENATOR KNIGHT: Well, I'm more concerned about
22 retaliation.

23 SENATOR JOHANNESSEN: -- to Romero as well, and
24 I've had long discussions with Nicole Parra about that.

25 No, there is no problem with that.

26 I do suggest, however, that we -- if they do come
27 to the Legislature, that we have the opportunity to get a call
28 and say, "Hey, what's cooking? What's going on?"

1 Now, as far as the -- and I'll tell you what
2 we're doing right now, Colonel. And I think you'll appreciate
3 it.

4 I have instructed my staff as well as the Cal Vet
5 Board that whenever they go to these homes for meetings, et
6 cetera, they will live at the home. No more Hiltons.

7 And the reason for that is, and I have spent a
8 night both in Barstow and in Chula Vista. The reason for that
9 is, you'd be amazed what you learn from these people when you
10 break bread and have a cup of coffee before the birds start
11 singing in the morning. You'd be surprised. And I have got an
12 earful. And especially in Barstow, we did make some changes as
13 a result of what was happening down there.

14 Yes, we do get -- but you also, you know
15 yourself, Colonel, there's military people, you know. There's a
16 couple of things that you know for sure. One, you don't take
17 away their cigarettes. Two, you don't take away their bottle,
18 or they get a little cranky. So, you know that, and we all know
19 that.

20 SENATOR KNIGHT: At Yountville there's been a
21 significant reduction in medical staff at Yountville. There
22 have been complaints by the residents of: a lack of care; the
23 requirements to move people long distances from Yountville; the
24 ability to charge and collect fees for doctors and services
25 within the local community.

26 Is this a problem?

27 SENATOR JOHANNESSEN: It was a problem.

28 SENATOR KNIGHT: It was.

1 SENATOR JOHANNESSEN: It was a problem, I
2 understand, several years ago or a couple years ago, where we
3 were not exactly what you would call a good neighbor. We put
4 our patients into these various places, and then we didn't send
5 them the money to go along with it, and they were a little
6 uptight about that, and I don't blame them.

7 SENATOR KNIGHT: So that's not going on any
8 more?

9 SENATOR JOHANNESSEN: What's going on right now,
10 Colonel, is that we have a hospital of sorts which I feel is
11 underqualified to do the things that we need to do. Why?
12 Because we don't have the latest in equipment. We don't have
13 the type of -- in some cases we need physicians that are
14 specialized in certain areas that we don't have. And for that
15 reason, we are transporting people out to general services
16 hospitals, local hospitals, which if we had the proper
17 facilities, perhaps -- which is a perhaps we never can do any
18 more because of the cost, I guess -- but if we have had maybe a
19 little more equipment that we could use, we may be able to
20 charge off and actually be ahead of ourselves financially if we
21 did that.

22 But yes, that is a problem we're working with
23 right now. But bear in mind also that there is no way that we
24 can provide the type of diagnostics and the type of services for
25 our veterans in any one of our clinics or in our hospital at
26 Yountville because that, we need specialized service, and they
27 deserve that specialized service, so we're going to have to send
28 them to the major clinics.

1 SENATOR KNIGHT: But we need appropriate medical
2 staff there to make the diagnosis in order to send the people to
3 some specialist. I understand.

4 SENATOR JOHANNESSEN: Do you know how hard it is
5 to get staff?

6 SENATOR KNIGHT: I have been very critical of
7 this department's administration and their operation of the
8 veterans homes, and services delivered to our veterans. And
9 I've visited all of the veterans home in the state, talked to
10 many residents and staff.

11 I want to make it very clear that when I am
12 critical of the department, I am being critical of the
13 management, not the staff that delivers the services to the
14 veterans.

15 This department has had management problems since
16 before this administration. However, because the problems have
17 continued, I lay blame on only one person, the Governor.
18 Unfortunately, a mere shuffling of the management staff will not
19 fix the problems.

20 I have little confidence in Secretary
21 Johannessen's ability to change the management mindset in this
22 department.

23 Thank you, Mr. Chairman.

24 CHAIRMAN BURTON: Thank you.

25 Senator Karnette.

26 SENATOR KARNETTE: I'd like to comment about
27 Senator Johannessen. I think you have that title forever.

28 I like the way you get to the point. When you

1 say you're going to do something, you're one of the most
2 concrete people I've ever met as far as knowing what you're
3 going to do, and telling us what you're going to do. For
4 example, the billing.

5 I'm real concerned that we get all the money
6 that's due us, and I'm real concerned that I know exactly what's
7 wrong. The fact that you spent the night in these homes, and
8 Senator Knight has done the same, and visited, I think that
9 really means something to me.

10 I've also worked with you in a lot of areas, and
11 I know when you get down to the nitty-gritty, you get down to
12 the nitty-gritty.

13 And I'm concerned about all these people who
14 aren't really being treated as if they're really people. And I
15 think you'll do that. That's the way my experience has been
16 with you, nothing but positive. We haven't always agreed on
17 everything, but I always knew what you meant, and you did what
18 you said you were going to do.

19 I have a question, though. There is a veterans
20 hospital in my district. Are you familiar with it? It's near
21 the college. I was there sometime ago. I'm not very familiar
22 with veterans. I wanted to get some funds for it, but it went
23 to West L.A. instead, which is okay.

24 Are you familiar with that?

25 SENATOR JOHANNESSEN: No, I am not.

26 SENATOR KARNETTE: Well, sometime when you visit
27 there, will you tell me what's going on? I'll trust you. I
28 know you'll tell me what's going on.

1 SENATOR JOHANNESSEN: Sure.

2 SENATOR KARNETTE: I also want to be sure that
3 the veterans -- you mentioned this, I think, when I was out of
4 the room -- but that the veterans that need care and help,
5 particularly in the L.A. area, that they get it as soon as
6 possible.

7 And I want to know if you have any ideas, or you
8 think of any legislation that you think can be introduced, I'd
9 really appreciate it if you'd let me know. I really want to
10 work with you on helping veterans.

11 My husband is a veteran, and I want him to get
12 best care also if he ever needs it, and many of my friends. I
13 have many friends in Gardena who are veterans. There's a VFW
14 there I think that's quite active.

15 So, if there's anything you need in the
16 Legislature, I'd really like to help you out.

17 But can you tell me about the billing? That's my
18 last question. What do you see? How are going to push these
19 people to get that billing out? Are you just going to go in
20 there and do like you did me when I was across the hall, just
21 say, "What are you doing about this?"

22 SENATOR JOHANNESSEN: What the system -- a couple
23 of questions, Senator Karnette. The first one is, of course, we
24 need to bear in mind that veterans hospitals, of course, are the
25 federal side of it.

26 SENATOR KARNETTE: That's federal, so the state
27 really doesn't relate to that then.

28 SENATOR JOHANNESSEN: We do in the sense that we

1 try to send our people there, and we're trying to, by
2 contractual agreements, get them in there. But we have a little
3 less to say on the federal side.

4 Now, as far as the billing and collection, the
5 key, and although I'm an engineer that went out with the slide
6 rule --

7 SENATOR KARNETTE: Engineers are very down to
8 earth.

9 SENATOR JOHANNESSEN: Yeah, but you know, I went
10 down with the slide rule. I don't even know how to really
11 operate a computer too well, but I do understand the principle
12 of it.

13 So, the key to it is to find a system, which you
14 have one entry, for example.

15 SENATOR KARNETTE: I see Senator Bowen, who's the
16 expert, going like this.

17 SENATOR JOHANNESSEN: Right, and what you do, the
18 first entry dictates where everything goes from there. It can
19 go to billing; it can go to reserve. And you get a report any
20 time you want to print it out.

21 In addition, you may be interested in knowing
22 that we're also looking at bar coding. It has been used in the
23 federal, but bar coding -- and some of the unfortunate things
24 that have happened is the, for example, in some cases, over
25 medication. One physician gives a prescription, the next
26 physician gives a prescription, and the guy fills them both,
27 then we got a problem, or conflicting prescriptions.

28 With the bar coding, if we get this bar coding

1 agreement from the manufacturer, the one who sells us the drugs,
2 that will automatically match the individual so that the doses
3 and the prescriptions that the doctor writes will follow all the
4 way through.

5 CHAIRMAN BURTON: The bottom line is, we're
6 working on it.

7 SENATOR JOHANNESSEN: Yes, sir.

8 CHAIRMAN BURTON: Thank you.

9 Any other questions, Senator Karnette.

10 SENATOR KARNETTE: No.

11 CHAIRMAN BURTON: This won't be a question. I
12 don't want a response.

13 In our information, there was a study
14 commissioned on veterans and homeless veterans, and we found out
15 that there could be as many as 55,000 vets living in shelters
16 and on the streets of California.

17 I would hope at some point the Veterans
18 Administration tries to figure out what we could do with that.
19 And if there ever again is a veterans bond issue, that they put
20 a piece in there to deal with the problems of homeless vets. I
21 know there's a lot of them in my district. The older ones came
22 out of the Vietnam War, and the younger ones came out of the
23 Gulf War.

24 Witnesses in support, Senator Bowen.

25 SENATOR BOWEN: I can be brief because my T-shirt
26 really is my testimony.

27 For people who don't know, those of us who served
28 with Maurice called him MoJo. And in Department of Veterans

1 Administration, the answer to "Got MoJo" should be yes.

2 We need somebody who has the kind of capability
3 to get down to it, get things done, and not take any nonsense.
4 A good stubborn Norwegian is just what we need.

5 [Applause.]

6 CHAIRMAN BURTON: Brigadier General Ware.

7 GENERAL WARE: Yes, sir.

8 Mr. Chairman, distinguished Committee, I'm
9 Brigadier General Ezell Ware, Chief Assistant Adjutant General
10 for the California National Guard.

11 In addition to representing that organization,
12 I'm also representing the United States Association of Black
13 Aviators, and also the Vietnam Helicopter Pilots Association.

14 It is a great pleasure and an honor to recommend
15 the confirmation of retired Senator Johannessen for the position
16 of Secretary of Veterans Affairs. As many of my colleagues back
17 here can attest, Senator Johannessen is actually the right
18 appointment for the right position at the right time.

19 I say that because I visit many of the veterans
20 and veterans organizations, and all of them are very high on
21 Senator Johannessen. I think in two words, Senator Johannessen
22 is a veteran's veteran.

23 So, I appreciate the opportunity to speak to you.
24 I know that this man will serve the California veterans well.
25 Thank you, sir.

26 [Applause.]

27 CHAIRMAN BURTON: Larry Lattman, Chairman, Allied
28 Council, Yountville Home, Member of the California Veterans

1 Board.

2 MR. LATTMAN: Mr. Chairman, three years ago I
3 bothered you, and you laid out a road map for me to follow, and
4 here I am again.

5 CHAIRMAN BURTON: You were supposed to turn right
6 at Fairfield and head up to Red Bluff.

7 [Laughter.]

8 MR. LATTMAN: No, you told me, you laid out a
9 road map for me. I was scared. I was just elected Chairman of
10 the Allied Council. I didn't know what to do.

11 I asked for an audience to see you. You kindly
12 consented to seeing me, and you told me what to do. And that
13 road map that you laid out for us has paid a tremendous amount
14 of benefits for the veterans living in the Veterans Home of
15 California, and for that, I will always be eternally grateful to
16 you, sir.

17 CHAIRMAN BURTON: Thank you.

18 [Applause.]

19 MR. LATTMAN: I appear now for three
20 organizations. I'm Chairman of the Allied Council of the
21 Veterans Home in Yountville, the largest veterans home in the
22 world, 1100 strong, who's been serving veterans from every war
23 except the Revolutionary War and the War of 1812. Yes, ma'am.
24 April 1, we'll be 119 years old.

25 And Californians can be justifiably proud of the
26 social experiment that has worked and worked effectively.
27 Through good times and bad times, we have been able to provide
28 for our veterans, us elderly and disabled veterans, a sanctuary

1 where they can go to live out the rest of their life.

2 The profile of a veteran today living in the
3 home, the average age is 79 years of age. They've got a
4 five-year expectancy of life. And it's incumbent upon all of us
5 to serve veterans. And we make sure that those five years are
6 as comfortable as possible.

7 I also have permission to speak for the veterans
8 living in the Home of Barstow. And of course, the Governor
9 appointed me to the Cal Vet Board, and the six members of the
10 Board also have asked me to come up and speak on their behalf.

11 We've come down to one thing. You're busy
12 people. We are at perilous times. We're building a new
13 generation of new veterans who're going to have to come into the
14 homes. What's happening in the Middle East, with a new set of
15 sicknesses, with new psychological problems, and we need to get
16 this Department of Veterans Affairs moving in the direction in
17 which it should be going.

18 I will tell you this. For the first time, we
19 veterans living in the homes, disabled and sick veterans as we
20 are, the first time we've had a chance for input to know,
21 intimately know, the new Secretary.

22 And we trust, and we know Senator Maurice
23 Johannessen. And we want him to become confirmed Secretary of
24 Veterans Affairs.

25 Out of his committee, when he was committee
26 Chairman of the Senate Veterans Committee, with Senator Soto and
27 Senator Knight, who I've pestered for many years, too, and
28 Senator Dunn, and Senator Chesbro, more meaningful legislation

1 came out of his committee in the last four years than in the
2 last 40 years in the history of California.

3 [Applause.]

4 MR. LATTMAN: And today I brought up few of the
5 veterans from the Veterans Home. It was hard for them to get
6 here. A lot of them are in wheelchairs and walkers.

7 Could you please raise your hands, my fellow
8 veterans from Yountville.

9 [Applause.]

10 MR. LATTMAN: We passed unanimously in our Allied
11 Council and in Barstow the endorsement of Senator Johannessen.
12 We know who he is. We want you to remember this, ladies and
13 gentlemen. I'll make this brief.

14 There are no Democrats, there are no Republicans
15 in a fox hole.

16 Thank you very much.

17 [Applause.]

18 CHAIRMAN BURTON: Thank you.

19 Major John Cleckner, Retired.

20 That will be made part of the record. If you can
21 summarize it, please, sir.

22 MAJOR CLECKNER: Senators, my name is John
23 Cleckner. I'm a retired Major, U.S. Army Special Forces.

24 I have a prepared statement, but I will be brief
25 and not cover it all because it's all written down there.

26 I've worked with and known Senator Johannessen
27 for almost 20 years. My service to my nation and as a veterans
28 advocate has encompassed 46 years. Up until recently, I was the

1 Chairman of the Board of the Northern California VA Systems of
2 Clinics Advisory Council, Vets, and I'm also the past President
3 of the Shasta County Veterans Affiliated Council, which
4 represented over 65,000 veterans and dependents.

5 I wanted to talk to you this afternoon about a
6 couple of men that I knew from Scandinavia. There were great
7 men, men of great courage, and I wanted to mention Secretary
8 Johannessen's name along with these great heroes.

9 As I stated, for almost two decades Senator
10 Johannessen has fought for veterans and their issues on the
11 battlefields of politics, like the men I was going to mention
12 who were heroes and had served their country for many years.
13 Senator Johannessen fought these battles from the City Hall of
14 Redding, California to the hallowed halls of the Senate of the
15 State of California here in Sacramento.

16 His exploits and accomplishments as a California
17 Legislator and statesman are equalled only by the outstanding
18 service that he has given to the veterans during this period of
19 time.

20 During the years I've worked with Secretary
21 Johannessen, and this is from the time he was the Mayor of
22 Redding, California to the time he was the Chairman of the
23 Shasta County Board of Supervisors, and his nine years as a
24 Senator here in the State of California, he has always had time,
25 and he's always given concern for veterans affairs. He always
26 made his staff available on a nonpartisan basis. He always had
27 his staff members well versed in veterans affairs and what was
28 going on at the time. He was very approachable on all veterans

1 issues, and in his approaches he was, again, always apolitical.

2 I've worked closely with him on the Cal Vet Home
3 Loan Insurance issue, and the Cal Vet educational legislation.
4 And these two issues lasted for many years. I have also worked
5 with him on the acquisition of Federal VA health care facilities
6 in Northern California, the first State Veterans Cemetery in
7 California, the Veterans Home Project that will build five new
8 State Veterans Homes in California, and now the important cares
9 issue that addresses veterans health care for the next 20
10 years.

11 I have known and worked with Secretary
12 Johannessen for almost two decades, and I can say he never made
13 me a promise that he didn't keep, and he never told me a lie.
14 Secretary Johannessen's dedication to veterans affairs and
15 legislation can only be characterized by saying that Secretary
16 K. Maurice Johannessen's courageous and aspiring leadership,
17 valiant fighting spirit, and tenacious devotion to duty, honor,
18 God, and country has ensured the veterans of California will be
19 honored and receive the benefits of services they so richly
20 deserve because of his personal dedication.

21 And with the Board's permission, I would like to
22 conclude by thanking Secretary Johannessen for all he has done
23 for our American veteran heroes, and say God bless you, and I
24 know you will continue to do this as California's Secretary of
25 Veterans Affairs.

26 CHAIRMAN BURTON: Thank you, sir.

27 [Applause.]

28 CHAIRMAN BURTON: Charles Parnell, State

1 Commander of the American Legion and fighter for a free Ireland.

2 MR. PARNELL: Thank you.

3 CHAIRMAN BURTON: Are you a relation, sir, to the
4 great Charles Parnell?

5 MR. PARNELL: Yes, I am.

6 CHAIRMAN BURTON: Good for you.

7 MR. PARNELL: Charles Stuart. I'm a Charles
8 myself.

9 Thank you for mentioning that. I'm very proud of
10 my Irish heritage.

11 Mr. Chairman, Members of the Committee, I would
12 like to make a comment that the Department of California, or the
13 veterans of California desperately need a permanent Secretary
14 for the California Department of Veterans Affairs. We certainly
15 have a nominee right now and a Secretary Johannessen.

16 He understands the veterans issues. He is a
17 veteran. He understands how we think. He understands our
18 causes, and he understands our needs. He has championed many
19 veterans issues and causes. As you know, he has sponsored many
20 bills in favor of and supporting the veterans.

21 We trust him. When I say "we," I say the
22 veterans. He has credibility. He says what he means and he
23 means what he says. And these are proven by his actions in the
24 past.

25 We have great confidence in him, and we certainly
26 look forward for his leadership in dealing with the veterans
27 issues and of our causes in the State of California.

28 So therefore, I do speak in support of his

1 nomination as Secretary of the California Department of Veterans
2 Affairs.

3 I'd like to thank you for his consideration, and
4 certainly that you will nominate him as our new Secretary.

5 CHAIRMAN BURTON: Thank you, sir.

6 [Applause.]

7 CHAIRMAN BURTON: John Lowe, State Adjutant, VFW.

8 MR. LOWE: Also, Mr. Chairman, I have a prepared
9 statement I'm passing around, so I'm just going to highlight
10 some of the things.

11 CHAIRMAN BURTON: Thank you, we'll make that part
12 of the record.

13 MR. LOWE: Mr. Chairman, Members of the
14 Committee, distinguished guests, fellow veterans, and on behalf
15 of our State Commander, I'm John Lowe. I'm the State Adjutant
16 of our organization, Veterans of Foreign Wars, United States,
17 Department of California.

18 As one of the state's largest and most
19 influential veterans service organizations, it's with great
20 pride that we rise in support of Maurice Johannessen for the
21 position of Secretary, Department of Veterans Affairs.

22 As a State Legislator, he has championed veterans
23 issues, and we believe he will do so as head of this
24 department.

25 We have been critical of the Department of
26 Veterans Affairs in the past. And though we support this
27 current leadership, let it be known that we will continue to be
28 watchful over how our entitlements are distributed, and the

1 services are provided to California veterans.

2 The veterans service organizations have long been
3 the voice of those who have had none, and under the leadership
4 of Maurice Johannessen, we hope the Department of Veterans
5 Affairs will take into account the views and suggestions and
6 services that we of veterans service organizations have to
7 offer.

8 Although the veterans homes is an important issue
9 in this state right now, but the Department of Veterans Affairs
10 has many other services provided to veterans. And we believe
11 that if the department is finding it is a challenge to manage
12 and administer these programs, that they should seek our
13 assistance as veterans service organizations, because it's what
14 we've been doing for veterans in the state for over a hundred
15 years without any county, state, and local subsidies.

16 Although many of our veterans are getting older,
17 we must not forget there are many younger veterans who are also
18 in need of services that the department provides, such as the
19 Cal Vet Home Loan Program and educational programs.

20 And as we are on the verge of war, we need to be
21 ready for the multitude of veterans returning home, seeking
22 these entitlements. Let's put a little bit more emphasis on the
23 variety of programs offered, and perhaps look towards new ones
24 to assist the younger vets.

25 California has always taken care of its residents
26 who stand up for our nation's defense, and I ask you to
27 recognize that not all veterans are aged and disabled. Our
28 California veterans deserve an advocate, and we as an

1 organization will continue to be that advocate, and we look
2 forward to working with Secretary Johannessen.

3 Thank you for your time today, and God bless
4 America, God bless our troops.

5 [Applause.]

6 CHAIRMAN BURTON: Larry Brooks, President-elect,
7 Disabled Veterans Business Enterprises.

8 MR. GREENE: Mr. Chairman, my name is Michael
9 Greene. Larry Brooks and I were here together, and he stepped
10 out of the room. He was having a coughing fit.

11 I'm the Secretary of the California DVBE
12 Alliance, and I'll just speak in his place.

13 We have been, the Disabled Veterans Business
14 Enterprise Alliance is a statewide organization. It's been
15 around since 1989. We have been working to see the full
16 implementation of California's Disabled Veterans Business
17 Enterprise program, which sets a goal for participation in state
18 contracts by disabled veterans, certificated by the state, for
19 up to three percent. Senator Knight has mentioned that
20 program.

21 We visited with Senator Johannessen several weeks
22 ago. He expressed interest in this and concern about it. We've
23 worked with him in the past through his chairmanship of the
24 Senate Veterans Affairs Committee.

25 We're very pleased to endorse his appointment as
26 Secretary of the California Department of Veterans Affairs.

27 CHAIRMAN BURTON: Thank you, sir.

28 [Applause.]

1 CHAIRMAN BURTON: John Canfield, past
2 Legislative Director, VFW, Department of California.

3 MR. CANFIELD: Mr. Chairman, Members of the
4 Committee, I'm John Canfield. I'm a World War II ex-paratrooper
5 with the 82nd Airborne Division. And I can just imagine --

6 [Applause.]

7 MR. CANFIELD: Mr. Chairman, I can just imagine
8 the feeling of those young paratroopers today. In a few hours
9 they may be moving into combat.

10 And folks, from personal experience, and I know
11 some people have had experience, combat is no place to be for a
12 future because some of these young people are not going to have
13 a future.

14 Mr. Chairman, the reason I'm here is that I'm
15 Vice Commander of the Veterans Affiliated Council of Sacramento
16 and Vicinity, and we are made up of posts from all different
17 veterans organizations and auxiliaries. As such, we're an
18 independent group. We aren't led by anyone.

19 This subject today came up at our last meeting,
20 and a motion was made unanimously to support the candidate for
21 the Secretary for the Department of Veterans Affairs, Senator
22 Johannessen. It was so unusual for the unanimous vote that one
23 guy stood up and made the motion that the record show for a
24 change, first time in my memory, that it was an unanimous
25 decision.

26 Mr. Chairman, I've been representing veterans for
27 various groups and organizations for at least 30 years here in
28 the Capitol. And I have been very critical of the Department of

1 Veterans Affairs, much to the displeasure of my wife, who is
2 also a veteran, Army nurse from don't-say-what-war, but it was
3 my era.

4 [Applause.]

5 MR. CANFIELD: She is not comfortable to see my
6 name in articles criticizing anyone, but Mr. Chairman, I had
7 ample opportunity to criticize, but I feel it was constructive.

8 A few weeks ago, I met a past Secretary of the
9 Department. He introduced me to a lady as, quote, "the meanest
10 man in Sacramento." And the lady looked at me and said, "He
11 doesn't look so mean to me," so I had to compliment her on her
12 excellent judgment, her willingness to think for herself.

13 But it's true, Mr. Chairman, the Department of
14 the Veterans Affairs has not served the veterans as well as they
15 should have.

16 And I have known the Senator for, I think, nine
17 years. And in all that time, he has authored legislation for
18 the benefit of veterans. And the thing that impressed me about
19 him is that not only was he willing to -- I won't wave my hands
20 too much, Senator -- the thing that impressed me, Mr. Chairman,
21 is that he was always willing to work that legislation. He did
22 not just introduce legislation for the folks back home and then
23 let the legislation die without making an effort.

24 So, Mr. Chairman, I'm going to quit while I'm
25 ahead. I think that Senator Johannessen is the man for the job.
26 If the problems in the Department of Veterans Affairs can be
27 solved, and there are serious problems, Senator Johannessen is
28 the man to do it. All ready the appointment of the chief second

1 in command, Cheryl Schmidt, a tremendous appointment. I won't
2 embarrass Cheryl if she's still here, but it's a way to go.

3 And Senator, I offer my support, my
4 congratulations, and I just urge the Committee to approve the
5 nomination.

6 [Applause.]

7 CHAIRMAN BURTON: I think just for the record, I
8 thought General James Gavin was not only a great general but a
9 great American and a great human being. Looked like he came
10 right out of central casting.

11 For the record, this Committee has been
12 responsible for getting rid of two, if not three, of the heads
13 of this, the Department of Veterans Affairs, because we refused
14 to confirm them, or asked Governor to withdraw them because
15 clearly they were not doing the job that they were supposed to
16 do. So, we used to hear the cries of the veterans, and we
17 listened. Actually, even if we didn't hear them, we did our own
18 research and found out that they were not qualified.

19 Other witnesses in support, briefly.

20 MR. SWANN: I want to thank the Senate Rules
21 Committee. Actually, this is going to be very hard, Senator
22 Burton, because I'm blind, to read this.

23 CHAIRMAN BURTON: We have it for the record.

24 MR. SWANN: But I'm going to be very brief.

25 CHAIRMAN BURTON: Why don't you just in your own
26 words.

27 MR. SWANN: Yeah. I'm going to speak from the
28 heart and just say that I'm speaking today on behalf of gay

1 veterans and Blinded Veterans of America.

2 I am grateful that you're giving a blind veteran
3 like myself, living with HIV and AIDS, an opportunity to
4 testify. And I want these constituencies to go on record in
5 support of this confirmation.

6 Senator Johannessen believes a veteran is a
7 veteran is a veteran. The Senators -- many of you may not be
8 aware that the U.S. Department of Veterans Affairs is the
9 largest single provider of HIV medical care in the United
10 States. That means that the VA provides more HIV care than Blue
11 Cross, or Kaiser, or any other group.

12 There were times in the early days of this
13 epidemic, as Senator Burton well knows, that at the VA
14 hospitals, the nurses wouldn't bring the food into the room if
15 you were HIV. Those days are over.

16 Senator Johannessen has said, and he's pledged to
17 our veterans that regardless of your diagnosis, you will receive
18 the equal benefits and equal access to the care that you
19 deserve.

20 We know that in combat, when you're wounded, your
21 blood runs together, and it's all the same color.

22 So, on behalf of the gay veterans and lesbian
23 veterans of this state, we support this confirmation because, as
24 you know, under this administration, and with the leadership of
25 Senator Burton, Senator KARNETTE, Senator Kuehl, and others, gay
26 and lesbian veterans finally have a seat at the table. Not
27 special rights, not a quota, just for the first time, the doors
28 have been opened, and we can at least sit at the table and say

1 what is going on.

2 And also, the last point on behalf of our blinded
3 veterans, being blind is devastating. Senator Johannessen wants
4 to support rehabilitation, he wants to support our special
5 needs. So I'd like to ask, you know, this is a difficult time
6 in America. War is imminent. There are terrorists out there,
7 and there are people in other foreign countries that are hateful
8 to America.

9 I think we need to send a message today, and I
10 hope that the Committee will consider a unanimous vote, because
11 we need to send a signal to the combat troops and to our
12 veterans that when it comes to these issues, we're united.

13 The last point, yes, I'm founder of America's
14 only Democratic Veteran Caucus. Yes, I was the Co-chair of the
15 Salute to Veterans at the 2000 Democratic National Convention.

16 I've never spoken in favor of a Republican
17 before. But let me say that veteran issues are too important to
18 be made partisan. A veteran is a veteran is a veteran, whether
19 you're gay, straight, Catholic, Methodist, Democrat, or
20 Republican, it's irrelevant. We're all Americans. Let's have a
21 unanimous vote today, and let's get behind the new Secretary,
22 and let's serve our troops and our veterans.

23 Thank you.

24 [Applause.]

25 CHAIRMAN BURTON: Thank you, sir.

26 Identify yourself for the record, please.

27 MR. HARPER: Thank you very much, Mr. Chairman
28 and Committee. My name is Don Harper. I'm President of the

1 California Association of Veterans Service Agencies throughout
2 the State of California.

3 We are a network, a nonprofit of community-based
4 organizations that represent the faces of homeless veterans,
5 those that have special needs, and veterans that we get into
6 training and housing programs in California.

7 I'm also a Vietnam veteran, a Marine Vietnam
8 veteran. I came back from Vietnam and had a lot of problems
9 myself adjusting back to the civilian life. And we do a lot of
10 work with homeless veterans in the State of California.

11 I appreciate your comments, Mr. Burton, on the
12 study that was done by the department make sure that homeless
13 veterans are in fact treated like any other veterans. In our
14 view, they are missing in America in many ways, and they are the
15 homeless veterans. Quite frankly, I'm probably the only voice,
16 with a few other folks, that speak for homeless veterans in
17 different communities and statewide issues. It is a major,
18 major concern for us as homeless veterans.

19 My statewide group met with Senator Johannessen
20 about two months ago. We had a good long meeting. He wanted to
21 learn more about homeless veterans: What are the problems with
22 them; what are the education; what are the solutions for them.
23 And he gave us our commitment to look into the issue of helping
24 homeless veterans throughout the State of California. I want to
25 thank him for that.

26 I learned in the Marine Corps in Vietnam, you
27 never leave anybody behind, nobody behind. I think every
28 veteran in this room appreciates that, and this includes

1 homeless veterans.

2 As many of you might know, of the homeless
3 population in California, one-third of the homeless population
4 at large, one-third are homeless veterans. So, they are a
5 significant part of the veteran population.

6 I had the commitment from the Secretary and the
7 Cal Vet Board to work harder with this on serving homeless
8 veterans.

9 With that in mind, we strongly endorse the new
10 Secretary for the Department of Veterans Affairs. Thank you.

11 [Applause.]

12 MR. REARDON: My name is Bill Reardon. I'm
13 representing the California Association of County Veteran
14 Service Officers. We're county employees. We're in 56 of
15 California's 58 counties whose sole purpose is to assist
16 veterans, their dependents, and their survivors.

17 I have a couple CVSOs in the back, if they'd like
18 to raise their hands in acknowledgement.

19 Our association is strongly in support of this
20 nomination. We've had the opportunity to work with Senator
21 Johannessen on legislative issues of concern to our association
22 and to the veterans of California.

23 We're also in the unique position that we help
24 administer some of the programs for the department, the specific
25 one is the California Dependents Fee Waiver Program. The CVSOs
26 throughout the state administer that on behalf of the
27 department. I believe that over 17,000 dependents of disabled
28 veterans were able to receive tuition waivers at California

1 schools last year.

2 We also get --

3 CHAIRMAN BURTON: We're aware of your duties. We
4 would like to hear your comments on the Secretary.

5 MR. HARPER: Yes, sir.

6 Working with the Senator, we've seen that he does
7 indeed care for the welfare of the veterans by virtue of the
8 legislation he's introduced and his willingness to listen to the
9 concerns that we bring him as individual CVSOs and also as
10 Association.

11 We think he will continue that in the future as
12 the Secretary. Therefore, we strongly recommend an Aye vote for
13 his confirmation.

14 Thank you.

15 [Applause.]

16 MR. AMARO: Good afternoon, Mr. Chairman and
17 Members. My name is Allen Amaro. I'm a past Legislative
18 Chairman for the Department of California for the American
19 Legion; committee member, Legislative Department of California
20 for the DAV.

21 I'm here in support of Senator Johannessen, and
22 I'm also a DVBE, which is a Disabled Veteran Business
23 Enterprise, I'm in business for myself.

24 I look forward to working with Senator
25 Johannessen. I've worked with him in the past to help us
26 support this DVBE program, and bring back the integrity and the
27 help that's needed to make this program go forward. We look
28 forward to help from Mr. Johannessen.

1 CHAIRMAN BURTON: Thank you.

2 [Applause.]

3 GENERAL MATTSON: Mr. Chairman, Members of the
4 board, I'm Brigadier General Don Mattson. I'm the Director of
5 the California State Military Museum.

6 The reason I'm here not only to talk about
7 veterans affairs and this gentleman, who we figure is one of the
8 best ones that you have for the job today, but if it wasn't for
9 Senator Johannessen, we wouldn't have a State Military Museum.

10 I've brought several people along. Would you
11 please raise your hands, those people who are affiliated with
12 the Museum.

13 [Applause.]

14 GENERAL MATTSON: Senator Johannessen is
15 responsible for making this institution a permanent state
16 feature. We have three million veterans in the State of
17 California without an official museum.

18 And I'm here to thank him and endorse him for the
19 this position of the Secretary of California's State Veterans
20 Affairs. He's a wonderful fellow. He's a veteran. He
21 understands it. He looked at it from one end, and now he's in
22 at the other end.

23 CHAIRMAN BURTON: Thank you.

24 [Applause.]

25 COLONEL HOM: Mr. Chairman, Members of the
26 Committee, I'm Benton Hom, U.S. Army Colonel, Retired.

27 I was also a National de Camp for the Veterans of
28 Foreign Wars of the United States. I was a past Post Commander

1 of the American Legion and VFW organizations, and also represent
2 many Asian Pacific American groups.

3 There are basically two reasons why my comrades
4 and I support the confirmation of Secretary Johannessen. Number
5 one, as echoed by many of those before me as far as their
6 sentiments are concerned, that number one, he has shown great
7 passion and abiding interest in the health and welfare of both
8 veterans and their families.

9 Number two, his magnificent legislative record
10 speaks for itself in terms of how he translates that passion and
11 interest into programs for war veterans of the present and the
12 past.

13 So, we like to support his confirmation in the
14 interest of his advocacy for his opportunity to rectify many of
15 the mistakes or inefficiencies that have been reported by the
16 Department of Veterans Affairs, and that this great potential
17 for him to realize those aspirations of the American veterans of
18 our wars.

19 Thank you --

20 CHAIRMAN BURTON: Thank you, sir.

21 [Applause.]

22 COLONEL GORRE: Mr. Chairman I'm Lieutenant
23 Colonel Gorre, United States Army, paratrooper also, retired in
24 August 1972.

25 I'm a combat veteran of Vietnam and Korea.

26 I feel that this meeting has to realize that time
27 is of real essence for the veterans. I'm saddened to say that
28 another veteran died today. As a matter of fact, 1,200 veterans

1 of World War II are dying on a daily basis nationwide. So time
2 is of essence.

3 I'm also a 100 percent disabled veteran rated by
4 the VA. I wouldn't be here today if not for the Veterans
5 Administration. I'm all of 73 years old and retired in 1970.

6 We need a man who has vision, courage,
7 determination to accomplish the goals that we need to be done
8 for our veterans. And I am proud to say that I've known Senator
9 Johannessen for a very short time; however, I know his support
10 for the veterans, and I strongly support his confirmation.

11 Thank you, Mr. Chairman.

12 [Applause.]

13 CHAIRMAN BURTON: Identify yourself for the
14 record, please.

15 COLONEL GREENE: Ivann Greene, Lieutenant
16 Colonel, Retired, 18th Airborne Corps, 101st Airborne.

17 I bring a different perspective, Mr. Chairman and
18 Senators, to this hearing today. I'm a staffer of the
19 California Department of Veterans Affairs, and I represent a
20 number of individuals who are not only in support of this
21 nominee for Secretary of Veteran Affairs, but we bring a
22 perspective that we are excited for this particular person.

23 Sir, we've experienced a number of negatives over
24 the last four, to five, to six years at this agency. And what
25 I'm here to say, sir, on behalf of my colleagues is that there
26 is a sense of excitement, there's sense of commitment, there's a
27 sense of desire to serve former Senator Maurice Johannessen.

28 I wanted to bring that to bear here, sir, because

1 I know it is a different perspective. I've personally taken
2 time off to make this statement today on behalf of my colleagues
3 because they could not be here. But I wanted to make that clear
4 today, sir, that we are in total support of this particular
5 person, and we're very excited for our future.

6 Thank you, sir.

7 [Applause.]

8 MS. METCALF-FOSTER: My name is Delphine
9 Metcalf-Foster. I'm the Junior Vice Commander for the Disabled
10 American Veterans, first female in 81 years here in California.

11 I support Senator Johannessen. Without vision,
12 we will perish. The people will perish.

13 The Senator's track record has showed he has
14 vision. He does not just talk the talk, but he walks the walk.
15 And I support him wholeheartedly.

16 Thank you.

17 [Applause.]

18 MR. CONATY: Good afternoon, Senator. My name
19 is Pete Conaty. I'm here representing my clients, California
20 State Commanders Veterans Council, 20 military organizations in
21 the state.

22 CHAIRMAN BURTON: On behalf of yourself and
23 Colonel Conroy?

24 MR. CONATY: Yes, on behalf of Assemblyman Mickey
25 Conroy, President of the Armed Forces Retirees Association, and
26 also here personally myself.

27 In the 17 years I've been associated with this
28 building, either in the staff or as a lobbyist, I have followed

1 veterans affairs, both personally and professionally, since I am
2 a retired military member, a disabled veteran, a Vietnam War
3 veteran, and a proud member of the 101st Airborne Division,
4 hoo-rah.

5 At any rate, and on a personal note, I must point
6 out that Major John Cleckner, who testified earlier, he and I
7 are both graduates of the Officers Candidates Course at Fort
8 Benning, Georgia, OC 1-66. So, let's give a round hand for OCS
9 graduates.

10 [Applause]

11 MR. CONATY: In the 17 years I've followed the
12 Department of Veterans Affairs, Senator Johannessen is the most
13 qualified person I have seen yet to be nominated and to serve as
14 the Secretary.

15 Thank you very much.

16 [Applause.]

17 MR. MARKARIAN: Senator Burton, Members of the
18 Rules Committee, I'm Ron Markarian from Fresno, California. I'm
19 the President of the Central California Chapter Association of
20 the U.S. Army and a former member of the California Veterans
21 Board.

22 And during my tenure on that board, I had the
23 opportunity to get to know and work very closely with Senator
24 Johannessen. I know that he is totally committed to the welfare
25 of the veterans of this great State of California, and I
26 strongly urge that he be confirmed.

27 Thank you.

28 [Applause.]

1 MR. KANELOS: Good afternoon, ladies and
2 gentlemen. My name is Gus Kanelos. I'm a legislative advocate
3 and lobbyist for veterans in the State of California, and I also
4 represented the 18th Congressional District on veterans.

5 I'm here today because of one gentleman, the
6 gentleman to my right, the honorable and distinguished Senator
7 Johannessen and the honorable Mr. Burton.

8 I also run UVAC, the Unaffiliated Veterans
9 Advocate Coalition, the fastest growing veterans organization in
10 the state and will be in the nation.

11 I'm here to ask that we do confirm Senator
12 Johannessen because California has three-and-a-half million
13 veterans. I've worked from one end of the state to another, and
14 I've worked in eleven western states. California has the worst
15 record when it comes to the maintenance and upkeep of our
16 veterans who are interred in cemeteries. I'm speaking now not
17 of federal cemeteries.

18 When we go down to Santa Nella every Memorial Day
19 and Veterans Day, and we honor our veterans, and I'm proud of
20 that. What makes them any different than the veterans who are
21 lying here in unmarked graves in California, with weeds over
22 their head, and without markers, when we have the fellow who
23 raised the Bear Flag over California with no marker on his
24 grave? He's a veteran.

25 We have eleven veterans buried underneath a
26 highway. The Governor knows this. He hasn't done anything
27 about it, and our veterans are really to blame because they
28 should stand up. They're willing to fight for their country,

1 they're willing to shed their blood, but they're not willing to
2 stand up and fight for themselves.

3 We are here today to see that the Veterans
4 Administration do what no other administration, Veterans
5 Administration, has done here, and that's to represent our
6 veterans. Let's give them honor and the dignity they deserve.

7 Thank you.

8 [Applause.]

9 MR. REECE: Mr. Chairman, Members of the
10 Committee, I'm John Reece. I'm hear representing the State
11 Commander for American Veterans.

12 Very simply, Secretary Johannessen has the full,
13 unqualified, unanimous support of AMVETS throughout the State of
14 California.

15 Thank you.

16 [Applause.]

17 CHAIRMAN BURTON: Witnesses in opposition?

18 Senator Johnson.

19 SENATOR JOHNSON: Thank you, Mr. Chairman.

20 I'd like to make a few comments, and I promise
21 that I'll be brief.

22 Mr. Chairman, as I've said on many occasions,
23 I've always believed that a governor, any governor, ought to be
24 able to appoint whoever he or she wants for his or her team.
25 And Mr. Chairman, you can count on the fingers of one hand the
26 appointees of Governor Davis that I have opposed. I voted to
27 confirm his choices in spite of the fact that so often their
28 only qualification appears to be that they're political

1 supporters of the Governor.

2 I realize fully that what I'm about to say is not
3 going to be popular, but the Department of Veterans Affairs is a
4 troubled department, and it's too important. We owe a debt of
5 gratitude to our veterans that we can never adequately repay.

6 So, Maurice, I'm going to oppose you.

7 I don't doubt for one moment the sincerity of the
8 American heroes who testified on your behalf. But very frankly,
9 I don't think they know you as well as I know you.

10 The truth is that only two people in this room,
11 Senator Knight and myself, have had to sit for years in Senate
12 Republican Caucuses and listen to your little pep talks about
13 how we've all got to stand together; we've all got to stick
14 together; and we've all got to hold the line on the budget and
15 taxes; and we've got to oppose the Governor.

16 And then we watched you go out on the Floor of
17 the Senate and do exactly the opposite thing.

18 Maurice, I'm talking straight to you, my friend.
19 You know that it was common knowledge in the halls of this
20 Capitol last summer that you would vote for the Governor's
21 budget, that you would provide the 27th vote for that budget.
22 And it was common knowledge in the halls of this Legislature
23 last summer that you would receive this specific appointment as
24 a reward for that vote.

25 Now, you've denied it, and the Governor's denied
26 it, but frankly, your denial just lacks credibility.

27 The Governor's usual practice in making
28 appointments such as this is to put out a short press release,

1 quietly, a paragraph or so. But in your case, he assembled a
2 large crowd, and he extolled your virtues for about ten minutes,
3 and then he personally swore you in.

4 That ceremony was an infomercial aimed at
5 Republican Legislators, and the message was this: Sell out your
6 principles, sell out your promises to your constituents, and
7 you, too, could be rewarded.

8 I have to say that such a blatant political
9 payoff is absolutely no way to choose the head of a department
10 that is as troubled as the Department of Veterans Affairs.

11 Again, I don't doubt for a moment the sincerity
12 of all these good people who've testified on your behalf, but
13 I'm going to vote no because I know you.

14 CHAIRMAN BURTON: Well, I would just like to say
15 except for the fact that the Veterans Department is in very
16 serious trouble, I do disagree with the comments of my friend
17 and my colleague.

18 I would move the nomination.

19 SECRETARY WEBB: Senator Karnette.

20 SENATOR KARNETTE: Aye.

21 SECRETARY WEBB: Karnette Aye. Senator Knight.

22 SENATOR KNIGHT: No.

23 SECRETARY WEBB: Knight No. Senator Romero.

24 SENATOR ROMERO: Aye.

25 SECRETARY WEBB: Romero Aye. Senator Johnson.

26 SENATOR JOHNSON: No.

27 SECRETARY WEBB: Johnson No. Senator Burton.

28 CHAIRMAN BURTON: Aye.

1 SECRETARY WEBB: Burton Aye. Three to two.

2 CHAIRMAN BURTON: Congratulations.

3 SENATOR JOHANNESSEN: Thank you.

4 [Applause.]

5 [Thereupon this portion of the
6 Senate Rules Committee hearing
7 was terminated at approximately.

8 3:20 P.M.]

9 --ooOoo--

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 12 day of March, 2003.

Evelyn J. Mizak
EVELYN J. MIZAK
Shorthand Reporter

Confirmation Hearing Remarks on behalf of Secretary K. Maurice Johannessen's nomination

There are two great Scandinavian Heroes that I personally served with in Special Forces. I think it would be most appropriate now to mention these great soldiers in the same breath with Secretary Johannessen and add him to this special group of men.

Colonel Keravuori was my Special Forces Commander when I returned from Officer Candidate School. He was a great man, who taught all of his young Lieutenants what it meant to be a Warrior. He was Dignified, Intelligent, a proven Leader of men and a Hero, not only in the American Army, but also during WWII fighting the Nazis in Scandinavia. He was an original member of Special Forces and served over 40 years in the American Army. His service during WWII is legendary. He had the equivalent of 7 American Silver Stars for his heroic actions against the Germans.

Captain Larry Thorne was Special Operations first Casualty in Vietnam while flying a secret missions out of Laos. His exploits during WWII resulted in Knighthood, and being memorialized

in many Military History Books. His unique ability to defeat the Russians & Germans at every turn won him not only some of Scandinavia's highest military decorations it also included the equivalent of two America's Medals of Honor. His unconventional exploits also opened the doors for him to come to America and become one of the original Green Berets during that unit's inception. His expertise and military knowledge of Guerrilla Warfare contributed greatly to the establishment of Special Forces.

These were men of great courage and dedication; Men of Scandinavia like K. Maurice Johannessen.

You can be a hero in many ways. For almost two decades Secretary Johannessen has fought for Veterans and their Issues on the battlefields of Politics from City Hall in Redding CA to the Hallowed Halls of the Senate of California here in Sacramento.

His exploits and accomplishments as a California Legislator and Statesman are equally as heroic as those aforementioned men of Scandinavia who came to America and continued to serve their adopted Country with honor & distinction.

During the years I worked with Secretary Johannessen, and this is from the time he was the Mayor of Redding Ca, to the time he was Chairman of the Shasta County Board of Supervisors to his nine years as a Calif. State Senator, he always had time and concern for Veterans Affairs. He made his staff available and on a non-partisan basis. He always had staff members that were well versed in Veterans Affairs available. Again his approach to Veteran's Issues were always "A" Political.

I have worked closely with him on the Cal-Vet Home Loan Insurance Issues, Cal-Vet Educational Legislation which continued for many years, and on the acquisition of Federal VA Health Care facilities in Northern California, the First State Veterans Cemetery in CA, the Veterans Home Project that will build 5 new State Veterans Homes in CA, and now the important CARES Issue that addresses Veteran's health care for the next 20 years.

I have known and worked with Secretary Johannessen for almost two decades and I can say he never made me a promise he didn't keep and he never told me a lie.

Secretary Johannessen's dedication to Veterans Affairs and Legislation can only be characterized by saying that "Secretary K. Maurice Johannessen's Courageous and Inspiring Leadership, Valiant Fighting Spirit and Tenacious Devotion to Duty ~ Honor ~ God & Country has insured that the Veterans of California will be honored and receive the Benefits and Services they so richly deserve because of his personal dedication.

With the Boards permission, I would like to Thank the Secretary for ALL he has done for our American Veteran Heroes and say "God Bless You", I know you will continue in this way as California's Secretary of Veterans Affairs!

Mr. Chairman, Members of the Committee, Distinguished Guests and Fellow Veterans, I am representing the Veterans of Foreign Wars of the United States, Department of California.

As one of our States largest and most influential veteran service organizations, it is with great pride that we rise in support of Maurice Johannessen for the position of Secretary of the Department of Veterans Affairs. As a State legislator, he has championed veteran's issues and we believe he will do so as head of the Department.

We have been critical of the Department of Veterans Affairs in the past, and though we support this current leadership, let it be known that we will continue to be ever watchful of how our entitlements are distributed and services are provided to California's Veterans.

Veteran Service Organizations have long been the voice for those who have had none, and under the leadership of Maurice Johannessen we hope the Department of Veterans Affairs will take into account the views, suggestions and services that we as a VSO have to offer.

Each year our Service Department assists in bringing in millions of dollars in revenue to our States veterans, dollars that are being put back into our local and state economy. Our members have also logged in hundreds of thousands of volunteer hours at VA hospitals and various other community activities in support of veterans.

However, a concern of ours is that we believe Veteran Service Organizations (VSO) are apparently not taken into consideration by the Department when dealing with veterans affairs. Much of the emphasis and resources are provided to the Counties through the Association of County Veteran Services Officers.

Our organization in addition to other VSO's are set up to provide assistance and information to veterans through its vast resources, to include monthly magazines, news letters, e-mail lists, and through network of local Chapters/ Posts. We estimate the veteran population we serve along with the other major VSO's is in the area of over one half million California Veterans.

The research shows that although not all veterans join a VSO, the majority that do are active and concerned about their entitlements and are high propensity voters.

We as well as other VSO's provide services to veterans through our offices located throughout the State such as filing claims for pension and disability with the Department of Veterans Affairs.

This assistance brings millions of dollars back into our local economies, yet the VSO's are completely self sufficient, as opposed to the Association of County Veteran Service Officers, who receive their funding from State and other municipal avenues. We feel the Department of Veterans Affairs should take our work into consideration when preparing statistical reports for the State Legislature. You might find that we as organizations significantly increase the amount of benefits provided each year to our States Veterans by more than 150 million dollars in addition to what the Counties provide.

There appears to be a direct link between the CA Department of Veterans Affairs and the County Service Officers, yet very little cooperation with our organizations. The CDVA has provided "symposiums" for the organizations which have been little more than self serving promotion rather than an opportunity to air grievances, discuss ideas and present information.

These issues, we hope, will change under the new leadership. Over the years there have been calls for complete re-organization, and concerns about our State Veterans Homes yet shuffling around the problem does not solve it.

The Department of Veterans Affairs should not just concentrate on the Veterans Homes or the aged and elderly veteran, although these are important areas, the State has many services provided to Veterans and if the Department finds it is difficult to manage and administer all of these programs they should seek our assistance, because it is what we have been doing for over a hundred years without state, county, or local subsidies.

Although many of our veterans are getting older, we must not forget that there are many younger veterans who are also in need of services that the Department provides, such as the Cal Vet Home Loan program and Educational programs. And as we are on the verge of a war, we need to be ready for the multitude of veterans returning home seeking these entitlements. Let's put a little more emphasis on the variety of programs offered and perhaps look towards new ones to assist younger vets. California has always taken care of its residents who stand up for our Nations defense. I ask you to recognize that not all veterans are aged and disabled.

Our California Veterans deserve an advocate, and we as an organization will continue to be that advocate. We look forward to working with Secretary Johannessen.

Thank you for the time today - God Bless America and God bless our Troops.



From the Desk of
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ORAL TESTIMONY
SENATE RULES COMMITTEE
Wednesday March 19
1:30 PM
Room 113

I want to thank the Senate Rules Committee for inviting me to testify today. This is a historic moment for California. This is the first time an openly gay veteran living with HIV or AIDS has testified before the senate to confirm the secretary of the California Department of Veteran Affairs (CDVA).

This historic day is possible because Sen. Burton, Sen. Kuehl and CAPE have opened doors so every member of society can participate fully in the legislative process.

We know that the U.S. Department of Veteran Affairs is the largest single provider of HIV medical care in the United States.

I support the confirmation of former Senator Maurice Johannessen because he understands that veterans disabled with HIV like me may have to reside in a state operated veteran home. Sen. Johannessen has pledged every veteran with an honorable discharge will receive equal access to state veteran benefits.

In the past 4 years Governor Gray Davis has elevated the concerns of women veterans and has given LGBT veterans a seat at the table. Sen. Johannessen has pledged his continued support that we will have dignity for all veterans and discrimination will not be tolerated.

The Senator knows:

A veteran is a veteran is a veteran.

I proudly support Sen. Johannessen's confirmation because he understands veteran benefits are too important to be made partisan issues. As you know I am founder of America's only certified Democratic Party veteran's caucus and I was co-chair of the salute to veterans at the 2000 Democratic National convention. Sen. Johannessen's military and public record has been to bring people especially veterans closer together. We owe it to California's 2.7 million veterans and their families to work together in a bipartisan spirit of cooperation.

I am speaking today on behalf of Blinded Veterans of America and California's only Catholic War Veterans Post 762 San Bernardino. Sen. Johannessen has pledged to do everything he can to give disabled veterans access to rehabilitation services and programs. As our veterans become older, transportation to VA hospitals is becoming a much larger need at the same time we face budget deficits. Sen. Johannessen has pledged he will work with the private sector to generate funds to maintain and improve transportation for our veterans.

I urge the Senate Rules Committee to confirm Sen. Johannessen, a friend to all veterans.

Thomas A. Swann

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